

# **ISLAMIC SYSTEM OF JUSTICE**

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بِسْمِ اللّٰهِ الرَّحْمٰنِ الرَّحِيْمِ

## CHAPTER I

### EXPLANATORY NOTE

#### **With Apology to Existing Laws**

With due apology to the existing laws of Egypt, I would like first of all to state my point of view on the subject. No doubt, it is my solemn duty as a judge to defend, protect and uphold these laws. In my capacity of a judge, I am expected not only to interpret and elucidate these laws whatever their nature, but also to promote their continuity and durability and safeguard them from disrespect and denigration. But for the sake of these very laws and for the promotion of their sanctity, I intend to undertake a critical appraisal of these laws. While doing so, I will certainly criticise the existing legal system. But I have no intention to oppose the spirit and the real essence of these laws. I believe that it will be a great service to the cause of the law itself if a critical discourse like the one which follows could raise some questions in the minds of the people about the finality and perfection of these laws and the people get mentally prepared for improving and reforming them. This is to my mind the *raison d'être* of this discourse and appraisal.

#### **Expression Legally Banned**

Under the existing laws, civil servants, particularly those belonging to the judiciary, are forbidden from expre-

ssing their views on public affairs. Expression of any opinion by a civil servant is termed as "political activity" and totally prohibited. It is regarded as a cognizable offence. The term "Political activity", according to our law-makers, includes all matters concerning political, economic, financial and social spheres. Thus under the laws of the land, no civil servant can express any opinion even on those matters which are of common concern to the individual as well as the community at large such as the nation's independence, national honour, prestige and dignity, the system of government or international relations. The objective of the law-givers, thus, appears to turn a living, dynamic and thinking man into a lifeless and soulless machine, compelling him to close his eyes and ears, shut up his tongue, and stop speaking so as to let all his faculties—consciousness, feelings and thought—wither away.

### Ban Impractical

This omnibus ban on eyes, ears and lips is neither practical nor logical. For instance, is it possible even for a judge to be emotionless or passionless notwithstanding the fact that he too, like others, is confronted with social problems day in and day out. He witnesses individuals as well as groups of people embroiled in conflicts in various fields of life. He sees people suffering from deprivation. He hears the woes of the oppressed working class. Every day he comes across tragic and pathetic cases of poverty and hunger, economic exploitation and repression, besides political injustice. Can a judge remain oblivious of these realities, these facts of life? Can a judge remain a mere neutral spectator when he finds his country under the yoke of a foreign power usurping all resources of his country, plundering its wealth and trampling upon its freedom and independence, thrusting its will upon his country, dictating its internal and external policies, and using quislings against their own brethren?

Can a judge remain indifferent to the perpetration of oppression and repression by a foreign imperial power in a country deprived of its freedom and independence, a nation denigrated and humiliated, a land exploited to the verge of bankruptcy? Can a judge remain unmoved when he finds his country disturbed, and embroiled in internecine turmoils, a people now divided in groups and arrayed against one another, a people whose forefathers had been laying down their lives in their struggle against foreign subjugation? Can a judge remain unaffected when he finds his country confronted with the crucial question of complete freedom or humiliating defeat, when he sees that his fellow citizens are lured by an imperialist power with the offer of offices in order to divide and rule, and at the instance of their masters, they start fighting against one another, killing one another and shedding blood. Can a judge remain aloof in the midst of these widespread conflicts and convulsions?

### **Judge Cannot Remain a Silent Spectator of Lawlessness**

Is it possible for a judge to remain impartial in a country where the accused are tortured just for extracting from them confession of their committed or uncommitted crimes? To achieve this, their nails are brutally uprooted from flesh, they are beaten so mercilessly that they become unconscious time and again. Their bodies are even burnt with firewoods or hot iron bars and their skin thrashed with lashes. They are deprived of food, water and medicine. They are made naked, insulted and humiliated. Wooden sticks and iron bars are pierced through delicate parts of their bodies. They are given threats that the same treatment will be meted out to their mothers, sisters, wives and daughters. Moreover, policemen do enter their homes where there is nobody except women folk and they remain stationed there for days and weeks. Although all these affairs or most of them are within the knowledge of the custodians of law, they take no preventive measures whatsoever. When these shame-

ful and sordid acts are brought before courts and the victims themselves tell the courts the harrowing tales of torture perpetrated on them, duly supported by documents and medical certificates, the Government remains unmoved and pays no heed to take cognizance just to save the prestige of law and law-enforcing agencies.

Is it possible for a judge to remain aloof in a world where respect for law no longer exists, where might-is-right prevails, where poor law has become an instrument of loot and repression? In a world where only yes-men of rulers get higher jobs and enjoy all kinds of benefits, where disunity is considered as the only source of success and immorality a pre-condition for respectability and high status, can a judge remain neutral?

Can a judge bear it easily that his country should be pushed back into the era of darkages; the earnings of the poor subjugated people be exploited by the mightier alien imperialists; the weak be without proper food and clothes while the rich and the stronger play with silver and gold? In case of complaint by the weaker, the law moves against the complainant forcing him to revolt against the current laws and the prevailing situation.

#### **Judge Cannot Remain a Silent Spectator of Drift from Religion**

Again, can a judge tolerate the open defiance of Islam by a Government or the rulers in a country the constitution of which declares Islam as the religion of the State? Or can a judge remain a silent spectator when the ruler becomes a blood-thirsty enemy of the disciples of Islam, and makes those devoted to good and piety the targets of his repression and patronises, those treading the path of evil and sin. Or can a judge remain neutral when he witnesses that the whole country is becoming bereft of morality and piety; honesty

and integrity are being effaced and the people are adorning their rulers as their ideal and model.

### **When Can a Judge Remain Impartial?**

A judge can remain impartial only if his countrymen respect the law of the land with their words and deeds, the weak and the mighty both recognise the supremacy of law. But a judge cannot remain neutral even if he so desires in case he belongs to a nation which professes to be devoted to a religion but does not act upon the tenets of that religion, it claims to be the upholder of the right, justice and fairplay but neither acts upon them nor does it fulfil its obligation to promote good and prevent evil.

These lines are likely to cause frown on the foreheads of many a people while others are likely to feel hurt. But to me all these man-made laws, rules and regulations are nothing but the gods of the present era. By obeying these laws, a Muslim disobeys Allah, the Great. Through these very man-made laws Muslim Governments are turning permissible acts and things into forbidden ones and the forbidden into permissible. The worshippers of these gods are likely to be infuriated to learn that one of the servants of this monastary has raised the banner of revolt against their gods. These persons will also wonder as to why one of those belonging to the Governmental hierarchy has revolted. I visualise that there would be an uproar against this from all around calling upon the people "to rise in support of their gods and catch this man before he demolishes them". But they should bear it in mind that it is simply not possible now to curb this revolt. This is not the view or claim of a single individual but the inner aspiration and urge of the whole nation. This is not the demand of a human being but the call of faith. It is a struggle for the cause of Islam. It is a Jihad in the way of Allah. It is through this path that we have to find our way to Allah.

## First Muslim then a Judge

Had I been a non-Muslim judge, I would have praised the existing laws like the Europeans and sung songs in their praise. Had I been an illiterate Muslim, I would have followed in the foot-steps of Western nations and unquestioningly reposed my faith in these laws. But, by the Grace of Allah, I am a Muslim Judge having greater knowledge of Islam than others. I know much more about the differences between the existing laws and the Shariat laws than any other lawyer.

## My Impartiality Amounts to Infidelity

The present law encompasses individual personal-matters as well as collective problems, the system of government, criminal and civil codes, morality, social justice, rights and duties and international relations. A Muslim judge can remain neutral or impartial only if he gives up Islam and adopts infidelity or if he elects to lead a life of animals without intellect.

The fundamental law for Muslims is the Islamic Shariat. A Muslim will willingly accept only those man-made laws which are in consonance with the tenets of Shariat or its spirit and elementary principles. He will heartily obey them in accordance with the commands of Allah. But a Muslim will never accept or obey a law which is against the Shariat. On the contrary, he will trample it down under his feet. Nothing in conflict with Islam can command respect from a Muslim. A Muslim can never be expected to owe such an allegiance to any human being which conflicts with his allegiance to Allah. If a Muslim indulges in any forbidden act knowing fully well that it is forbidden by Allah, in that case he will become impious. In case he treats any forbidden act or thing as permissible and justified then he will turn into an unbeliever or infidel. A true Muslim would never like to present himself before Allah or His creatures either as "impious or unbeliever."

## No Obedience to Sin

It is incumbent on a Muslim firstly to obey Allah and His Apostle and, secondly, to those charged with authority. Islam also enjoins on every Muslim not to obey any authority which defies the commandments of Allah. As such, no obedience which is liable to exclude a Muslim from the pale of Islam (obedience to Allah) is justified. Allah, the Great, says in Sura Nisa:

"O Ye who believe ! Obey Allah and Obey the Apostle, And those charged With authority among you If ye differ in anything Among yourselves, refer it To Allah and His Apostle, If ye believe in Allah And the Last Day; That is the best, and most suitable For final determination". (4.59)

According to this, the rulers have no doubt the right to seek obedience of the people and the ruled are enjoined to obey them. But this right is not unlimited. The rights of the ruler and the duties of the ruled are restricted with certain conditions. No Government, official or non-official, is authorised to issue orders conflicting with Islamic injunctions. Similarly, the ruled (people) are not permitted to obey those Government orders which violate the commandments of Allah and His Apostle. The Holy Prophet (Peace be upon him) has stated in unequivocal terms: "Obedience to a man in defiance of Allah is not permissible". Don't obey those orders of the Government which compel you to disobey Allah.

## Enjoining of Good and Prevention of Evil Is Obligatory for Muslim

Islam enjoins a Muslim to promote good and prevent evil. Allah says:

- (i) And let there be from you a nation who invite to goodness, and enjoin right conduct and forbid indecency. Such are they who are successful. (3:104)
- (ii) Ye are the best community that hath been raised up for mankind. Ye enjoin right conduct and forbid indecency; and ye believe in Allah. (3:110)
- (iii) And the believers, men and women, are protecting friends one of another; they enjoin the right and forbid the wrong. (9:71)
- (iv) Those who, if We give them power in the land, establish worship and pay the poor-due and enjoin kindness and forbid iniquity. (22:41)
- (v) They restrained not one another from the wickedness they did. Verily evil was that they used to do ! (5:79)

Several traditions further elucidate and emphasise the importance of this obligation. Hazrat Abu Bakr is reported to have stated that the Holy Prophet (Peace be upon him) in the course of one of his discourses said:

“Ye people read the following verse but interpret it wrongly: ‘O ye who believe ! ye have charge of your own souls. He who erreth cannot injure you if ye are rightly guided.’” (5:105)

Ye infer from this verse that personal acts of piety are sufficient enough for salvation and feel no compulsion for enjoining what is right and forbidding what is wrong. As against this, I have heard the Holy Prophet (Peace be upon him) as saying. “If sin is committed amongst a people and those capable of preventing it fail to do so, then certainly Allah will in no time inflict penalty

upon all (the sinners as well as those having failed to prevent them)."

Other traditions on the subject are as follows.

- (i) "You must continue to enjoin good and prevent evil. Otherwise, Allah will foist upon you those who are worst amongst you. Then the prayers of the most pious will not be acceded to."
- (ii) Some acts in comparison to Jehad are like small drops against oceans. And all good and pious acts including Jehad in the way of Allah, are like a drop in an ocean in comparison to enjoining of good and prevention of evil.
- (iii) The best martyr amongst my Ummat (followers) is the person who stands up before a tyrant ruler to enjoin good and prevent evil even if for this he is beheaded by the tyrant ruler. The position of this martyr in paradise will be between that of Hazrat Hamza and Jafar. The people who do not do justice are verily very bad. And the people who do not promote good and prevent evil are likewise very bad.
- (iv) Whosoever among you witnesses an evil, he should try to change it by his hands. If he is unable to do so, he should try to do it with his tongue. If he is unable to do even this, he should consider it bad and should wish to change it. This is the weakest type of faith.

Enjoining of good means that people should be entreated and induced to act upon the Shariat injunctions by their words as well as deeds. Prevention of evil means that people should be asked and induced to give up all such acts

which are forbidden under the Shariat. There is a consensus among Muslims that the question of enjoining of good and prevention of evil is not subject to discretion. It is neither optional for Muslims nor does it fall under the category of those deeds which are not compulsory to act upon-praiseworthy if acted upon and constitute no sin if not done so.

Enjoining of good and prevention of evil is, as a matter of fact, altogether obligatory for Muslims. There is no way out but to fulfil this obligation. To leave it or show carelessness in its fulfillment is not permissible at all. It also entails the collective responsibility of the entire Muslim nation. It is therefore all the more necessary to eradicate evil from this world and promote good instead. It is similarly incumbent on the Government of the day to act upon this and fulfil their obligation in this behalf. Society is also duty bound to do so. Only thus we can efface and eradicate evil and impiety and create an atmosphere conducive to betterment and piety.

In the present era, evil is pervading all round. People are so used to commit evils that neither they themselves refrain from it nor does anyone else stop them from doing so. The Government and the governed both disobey the Almighty Allah and both of them equally consider as permissible even those things which are forbidden by Him. Governments frame and promulgate such laws for Muslims which push them towards disbelief, polytheism and renegation.

In this deplorable situation, it is the duty of every Muslim to discharge his obligation. In this respect, a Muslim, whether an official or non-official, a judge or non-judge must endeavour to get the un-Islamic laws changed. It is essential that Muslims all over the world should co-operate with one another. For this purpose, if they cannot use their hands, they should sincerely support the cause by their words, by their pens and by their intellect.

It is incumbent on all Muslims to cooperate with one another in the matter of good and piety, and extend no-cooperation in the case of "evil and sin". If Muslims embark upon this, Allah will certainly help and assist them and raise to the ground the gods of falsehood and rebellion. Allah is on the side of the party of Muslims. When a Muslim helps his brother in the cause of Allah, He also extends a helping hand to him. A Muslim should continue struggling against non-Islamic laws.

The uncouth may whatever do or say against the discharge of this duty by a Muslim, he can do no harm to him provided he (the Muslim) is inspired by complete faith and true religious fervour. Holy Quran has thrown light on this fact in these words:

" O ye who believe ! Ye have charge of your own souls. He who erreth cannot injure you if, ye are rightly guided." (5:105)

## CHAPTER II

### OBJECTIVES OF LAW

The law in its true spirit and real essence is an inevitable necessity from which there is no escape for a human society. Through law, the collective life is governed, transgression prevented, rights safeguarded, justice maintained, and foreign relations among comity of nations established. Human necessity has, in fact, given birth to the institutions of law, paved the way for its growth and evolution and engraved respect of law on the minds of the people as a righteous act. Individuals in a society bind themselves in a social order and recognise the supremacy of law to protect themselves from tyranny and transgression and to live in peace and tranquillity. The necessity of law also accrues from the fact that some people are prone to indulge in acts detrimental to the larger interest of the society unless they are prevented by force from doing so. Similarly, they, unless compelled, fail to discharge their duties towards the society. Thus there are innumerable necessities, both individual and collective which call for establishment, of social life on the basis of legal order. This discussion also makes it amply clear that law is not something above human society, which could be imposed forcibly on an individual or a community ignoring the individual or collective interests. As a matter of fact, the sole objective of the law is to ensure benefit, betterment and safety for the society.

Law, in whatever shape or colour, is an instrument for the service and benefit of the community. Law makes education compulsory, only because it seeks to remove illi-

teracy. Law prescribes punishments for criminals for the purpose of ensuring peace and tranquillity and eradication of crimes. If law prohibits transgression, of all kinds, it does so only for the sake of ensuring that nobody is deprived of his right and everybody leads a peaceful life. The only *raison d'être* of the existence of law and its supremacy is that it is instrumental in ensuring the greater good of the society. That law which fails to achieve its basic objective is altogether wrong and unacceptable. It deserves neither any respect nor any obedience. On the contrary, it should be totally demolished. If we recognise it as law or obey it, it will mean that we are exceeding our limits and encroaching upon the rights of the society.

#### All Nations Have Their Own Laws

It is a basic principle in regard to law that the legal systems of various nations having different creeds and ideologies differ from one another. The law of a nation reflects its thoughts and feelings. Law is deeply related to a nation's past, present and future. The law of every nation mirrors its moral, cultural, social and political concepts. The difference of national temperaments is invariably reflected in the shape of different legal systems of various nations. The legal system of Japan is as much different from that of India as the Japanese are different from Indians in their creed and ideology. The Russian law is different from the English law in proportion to the difference between their respective creed and thoughts. In this context when we attribute a particular code of laws to some particular nation this attribution denotes a deep and real relationship not merely a namesake relation. That is why every nation is always ready and prepared to safeguard and protect its law. It regards any disrespect of its law as its own disrespect and humiliation. Therefore, when the law makers of a nation borrow some laws from other nations, they do not include them in their code in their original form. Instead, they

amend and chisle it so as to bring it in conformity with their own legal system.

Every nation knows it very well that the worst form of accepting slavery is to let another nation's laws be enforced without any change or amendment. In that case, that nation loses its national individuality and it is tantamount to voluntary acceptance of the other nation's over-lordship.

### Alien Law Imposed on Muslim Countries

It is painful to note that this principle has more or less been violated in Egypt and other Muslim countries. A large part of Western laws has been imported and enforced in these Muslim countries where Islamic laws and Quranic injunctions have held sway and supremacy for more or less thirteen hundred years. A great majority of the people of these countries believe in the ideology of Islam. They have always been endeavouring to act upon the tenets of Islam. The people who began adopting Western laws must have taken care to keep the present and the past of the Muslims in mind. But these jurists lacked foresight. As a result, alien laws, unfamiliar to Muslims, assumed supremacy in Muslim countries. These alien laws neither possessed a glimpse of the Muslim past nor a cure of their present ills nor any guidance beacon light for their future. On the contrary, these laws were altogether in conflict with the Muslim creed and aspirations. The seeds of these laws were sown in a foreign land where they blossomed. It is an unfortunate irony that these unholy saplings have now been planted in a land where the people have nothing but hate for them and therefore are bent upon uprooting them. These laws which give us unrestricted liberty push us towards blasphemy and infidelity. The principles and teachings of these laws bear no relation to our way of life and background. It is as if a child has been snatched away from his parents and forcibly placed under the guardianship of others,

or an illegitimate child has been placed in the arms of parents whose own child has been forcibly snatched away.

### **Law Protects And Safeguards Creed**

The objective of law is to protect the dearest assets, both material and spiritual, of an individual as well as society. These include one's belief and creed. The mainspring of Muslim ideology and values is Islam. Had our law-givers been bestowed with foresight by the Almighty God, their evaluation of laws would have been based on the criterion of conformity with the teachings of Islam and Islamic injunctions. But alas ! nobody took this trouble. As a result, the present position is that these laws (adopted by them) pose a challenge to Islamic principles and constitute a serious hurdle in the way of performance of Islamic duties. In this way, our existing laws have negated the fundamental principle of law. These laws have miserably failed to achieve their basic objective and justify their very existence. However, the laws are not to be blamed for this. The blame in fact, lies on those who showed no sagacity in copying these laws. As a result, our peace and tranquillity has gone, and there is commotion and uncertainty all around. The world of Islam is under clouds of stress and strain these days.

### **The Object of Law Is to Promote Good.**

The objective of law is to lead us towards good and perfection. But the Western laws are leading us towards evil and degeneration, and pushing us towards the precipice of death and destruction. History is a witness to the fact that the Muslims have always aspired and strived more diligently for righteousness and good than any other nation. They had been closer to good and more active for creating mutual cooperation and understanding. However, they gradually lost their glory and their exalted position soon after alien laws were introduced in Muslim countries. We, the Muslims, have also lost our ethics and piety. We have

now become selfseekers, materialists, egoists and time-servers. We no longer make any distinction between the legitimate and the illegitimate, between the permissible and the forbidden. Once our moral grandeur was cited as an example throughout the world. But now we are only after fulfilling our lust and running like beasts in search of our preys.

### Law Brings Exploitation to an End

Another objective of law is to put a stop to profiteering and forcible exploitation. But in Muslim countries this is not so. In these countries laws have been framed to safeguard the interest of the imperialist powers, to legalise their loot and plunder, to keep the Muslims under economic domination and subjugation and never to let the grip of humiliation and disgrace around their necks loosened. This is true for the whole Muslim world. For example, let us examine the case of Egypt.

In 1945, when the war ended, Britain was found indebted to Egypt to the tune of 50 crore guineas generally called sterling debts. Was our country so rich and resourceful as to afford to loan such a large amount of money to Britain. Had Britain made a request for that loan and Egypt acceded to it? No, not at all. It simply amounted to theft, loot, plunder and dacoity which was given the legal cover of debt. Similarly, other laws of Egypt have legalised numerous other forms of British exploitation. These laws deprive the poor Egyptians of their daily necessities and hand them over to the Britishers. According to Egyptian law, the Englishmen are authorised to spend as much as they wish from our sterling balance of payments. In this country, the 'bank Ahli' is like an English institution or organisation. Under the law, this bank has been authorised to issue Egyptian currency against British treasury's promissory notes. In this way, the unlawful grabbing of Egyptian currency has been legalised by the British. They take away from our financial

resources whatever they like against British Promissory notes. Can such a law which seeks to snatch away from the natives their bread and gives it to the other nation, be called just or equitable. It is no justice that the common man of the one should be getting hardly their subsistence while those belonging to the other nation were enjoying all amenities.

Soon after the end of the last war, we started pressing for repayment of our large-sized loan. Had this debt been repaid, we would have successfully completed several stages of development in every sphere of our material life. But the Britishers responded with dilly-dallying. They emphasised that they had supported and defended Egypt during the war and demanded that the amount of debt should be reduced. The question arises whether we had requested them to defend us or asked them to station their troops in our country even for a moment. Whether we had declared a war against anyone or somebody else had done so against us. It is rather very sad that we have learnt no lesson so far. We have made no endeavour so far to amend the British laws. The Britishers are plundering the resources of this country with both hands. Even in the supply of vegetables, fruits, meat etc., preference is given to the ruling class.

After this loot, very little is left and it results in short supply. The prices of these articles therefore, rise so high that only the rich can afford to pay. Thus these articles of daily necessities get beyond the reach of the poor masses. They just look on but can hardly purchase them. Similarly, the building material iron, wood, cement etc., is largely utilised for the construction of cantonments of the British army and the bungalows of British officers. No price is paid to us for these articles but deposited in the British Treasury against the debt account payable to us. Nobody knows when the payment of this debt will be made. If sometimes the payment is promised it is considered a great favour and

for this favour we are expected to bow our heads. Does this not clearly mean that our laws are instruments for loot, plunder and exploitation? These are being used by our enemies against us. This is being done under the supervision of our Government and the very nose of custodians of law.

### **Egyptian Laws Serve Imperialism**

The laws of Egypt serve and protect the imperialist and alien interest. These have been framed actually to serve the imperialists and afford them ample opportunity to squeeze the blood of the Egyptian people. The aims and objects of these laws are to remove the people of Egypt from the righteous path and lead them to the path of evil, to keep them illiterate and weak and to make them an easy prey to be swallowed by the imperialists. All the laws concerning revenues, tax and customs in force in our country are designed to make the British capitalists richer and the Egyptian labour and farmers poorer. It can be said without fear of contradiction that the foremost target of these laws is to promote and accelerate the British trade and make Egypt a market for British manufacturers. Our laws relating to imports place undue restrictions on imports from foreign countries other than those from Britain because it is not possible for Britain to compete with other countries in respect of prices. Most of us know that the Japanese manufactures cannot be imported into Egypt only because of exceedingly high rate of import duties imposed on the Japanese motors, radios and other goods which are five times cheaper than those of Britain.

Innumerable resources of Egypt are being used for the maintenance of imperialism. We prepare roads, lay out railway tracks and all these are utilised by the Britishers for the transportation of their military forces and trade commodities. We build ports and the British ships remain anchored there. We erect electric and telephone lines and the Briti-

shers utilise them. A large quantity of edibles and other goods are brought to Egypt for the Britishers and their allies. But the import of these goods is exempt from duty. Egypt gets nothing out of it except undertaking the burden of its transportation. The foreigners don't care to pay the small transportation charges. Their behaviour is generally mean, miserly and provoking. On flimsy grounds they even refuse payments. All this happens under the very nose of law. But it remains silent. The alien usurers are scot free to suck the blood of poor Egyptian like leeches. Thus day by day the Egyptians are becoming poorer while the foreign capitalists are getting richer. Consequently, Egypt has become a heaven for these scoundrels and gamblers who have acquired full control over our economic life-line. All big banks and companies belong to foreigners. Most of capital investment in trade and industry is theirs. Import and export is in their hands and under their control. It was a very bad day when the transaction of usury was made permissible under law in our country. According to our religion, usury is totally forbidden. A Muslim under very compelling circumstances will commit the sin of taking loan on interest but if he has any regard for his religion, he will never agree to take interest on loans or give loans on interest. As a result, the majority of those who pay or give interest are Egyptians while the majority of those who receive interest are foreigners. Thus the one-way circulation of money is culminating in accumulation of Egypt's wealth in alien hands.

#### **No Ban on Liquor and Illicit Sexual Intercourse in Egypt**

There is no ban on liquor in Egypt in spite of the fact that it is forbidden according to Islamic injunctions. The day when the use of wine was legalised in Egypt, there was not one among the hundred Egyptians having known its taste. The common Muslim even did not know anything about it. There was not a single person in Egypt out of a

thousand who could have ever complained against prohibition or demanded lifting of this ban. So, what was then the necessity to make this "mother of all evils" permissible? What did compel our rulers to revolt against Islam? Was this only to gain the favour of aliens? Our Governments wanted to wash out the serious charge against them that they were suffering from bigotry and upholding the outdated Islamic laws. Similarly, "zina" (illicit sexual intercourse) has also been legalised in our country notwithstanding the fact that our faith has forbidden it altogether. This has been done ostensibly to enable presentation of the daughters of Egypt, to foreigners along with wine. Why should our Governments feel shy in presenting liquor and our women to foreigners when they had placed all resources and wealth of the country at their feet?

### No Civil Liberties

At the instance of imperialist powers, our Governments similarly have placed restrictions on movement, assembly and writings. There are a number of restrictions on travel from one Islamic country to another. As a matter of fact, it is very difficult to travel from one place to another within one country. For instance, to travel from Egypt to Sudan or from Northern Sudan to Southern Sudan is not easy. Regarding meetings, processions, press, publications and organisation the same old laws framed during foreign rule to serve their interests still continue to be in force. Through these very laws our people were deprived of their freedom and liberty and bound in slavery. The laws concerning arms and ammunition still in force prohibit their sale and purchase and place a number of restrictions on their use. These restrictions are only designed to make us weak and uninitiated with their use while it is incumbent on us to wage jihad against the enemy to crush him through force.

These are the impure principles on which our laws have

been founded and established and for which pure principles have been sacrificed. These laws are marring and spoiling both of our worlds; this temporal world and the hereafter. Owing to these laws, evil, disorder and conflict are growing. Poverty, slavery, beggary and humiliation are spreading. These laws are not ours. These are the laws of our enemies. These are no less than chains of slavery. It is our great misfortune that these laws are attributed to us without any justification, rhyme or reason, while these are pushing us in the lap of disbelief and slavery and leading to the country's destruction and disruption.

### **When Does Law Get Supremacy?**

As stated earlier, law is really an inevitable necessity from which there is no escape for any one, individual or community. On the strength of law, social life is organised, social order established, encroachment prevented and rights safeguarded. The instrument of law enables the establishment of collective justice and equity and leads the world community towards their destined goal of progress and prosperity. To achieve these high and magnificent objectives, it is but essential that the law should not only be in black and white but compiled in clear terms under various sections to obviate any misinterpretation, confusion or misgiving. In other words, the legal system, like the system of our body, does have two aspects. one is its spirit and the other its body. The real meaning underlying the law which commands public recognition of its supremacy is its spirit. And the words in which the law is attired constitute its body. The legal system which does not command total respect, enjoy inner and heartiest reverence of the minds of the people is like a dead and spiritless body. Despite its being written this type of law does not have the value of even the piece of paper on which it is written. The utility of law and its effectiveness largely depends on the respect and reverence which it enjoys and commands. The law will be as strong

and effective as its grip on the people. If its grip on the people is loose, the law will be weak and ineffective to that extent.

Two factors govern this grip of respect for law: The first one is spiritual and moral while the second is the force of compulsion. The first one the respect and reverence for law goes deep into the hearts of the people who have to obey it. Because of their fervour both head and hearts of the people bow before law. Wherever this fervour, zeal and spirit is available, law is obeyed sincerely, heartily and willingly not half-heartedly or under compulsion. Its contravention is considered a moral crime or sin. This welcome situation cannot arise unless the foundation of law is based on the people's faith and creed or on those principles which enjoy people's respect and reverence.

The other factor relating to supremacy of law is the force of compulsion which is employed for its enforcement. This is actually an extraneous element, the employment of which depends on jurists and Governmental machinery. This element includes punishment, penalty and fines provided under the law for its contravention.

## CHAPTER III

### TYPES OF LAW

If we look at the legal systems prevalent in the world from the angle of the supremacy, respect or reverence which they command, we find that there are many types of legal codes. One of these consists of those laws in the respect, reverence and supremacy of which both spiritual and temporal, inward and outward, factors play an important role. This kind of law has enormous capability for growth and continuity. Its grip on the society remains firm and strong. Since this kind of law represents the inner voice of the people, and truly reflects their faith and creed, its rule extends to both the outward and inward worlds. Consequently, there exists no contradiction between the two and complete harmony between the exterior and the interior comes about. As the demands of both the law and the faith happen to be identical, this kind of law is always obeyed and observed irrespective of the fact whether one is alone, in company of others, rich or poor. Obedience to this kind of law is open-hearted because by fulfilling the demands of these laws, we attain satisfaction of our hearts. If we disobey and violate these laws, our conscience pricks and reprimands. The best example of these laws is the Islamic Shariat law. Although certain man-made laws may also be included in this category, there are certain basic and vital differences between man-made laws and God-endowed laws.

#### **Man-made Law and God-Endowed Law**

The most striking characteristics of the Shariat laws is that they command such an element of spiritual supremacy and sanctity which cannot be found in any of the

man-made laws. Every law of Shariat is based on one or the other Islamic tenet. Islam enjoins on every Muslim to mould his words and deeds, conduct, ethics, habits, relations etc., in accordance with Islamic principles. The Shariat laws are deeply correlated with the Muslims' faith and ideology. Therefore, the hearts of Muslims beat in unison with these laws.

On the contrary, man-made laws are seldom based on religion, ethics or morality. Barring one or two laws based on religious faith or morality, a large majority of man-made laws are based on the temporal objectives of governments and legislators. It is common knowledge that European laws have been derived from Roman Law. Long before the Europeans adopted Christianity, the Roman law had existed and passed through most of the stages of its evolution. Moreover, when Christianity reached the pinnacle of its glory, it had forsaken the Shariat of Moses. Consequently, there was hardly any impact of religion on their laws. Some annexures were added to the code of law to show that it was religious in character and to enable the governments to extend certain facilities to priests.

### Salient Features of Shariat Laws

Another salient feature of Shariat laws is that their real objective is to preserve and safeguard moral values. For this purpose, there is ample provision in Shariat for safeguarding and preserving each and every moral value. The Shariat law at once comes into play with regard to any matter having some bearing on moral values. But the man-made laws have no particular interest in moral values. As long as the immorality of a person does not go to the extent of harming others or becomes prejudicial to public peace and order, man-made law takes no cognizance of individual acts and remains a silent spectator of the whole affair. For example, under the existing laws, illicit sexual intercourse is a cognizable offence only in case one of the parties commits it forcibly. In other words, the real crime is not illicit sexual intercourse, but application of force or compulsion.

Thus illicit sexual intercourse is brought to the equal footing of personal effects. As it is an offence to grab others' personal effects forcibly, so illicit sexual intercourse by force is treated as an offence under the existing law. Similarly, since it is no offence to take others' personal effects with mutual consent, illicit sexual intercourse with mutual consent constitutes no offence under these laws. The existing laws thus provide an umbrella to illicit sexual intercourse in case it is with mutual consent. If any third person interferes in the affair, the law proceeds against him. As against this, under Islamic Shariat, illicit sexual intercourse in every form or shape is an offence and forbidden. To Shariat, this is a heinous crime which erodes moral values. There is no denying the fact that the corrosion of moral values of individuals ultimately upsets the whole society and saps its very foundation. Similarly, drinking of liquor is neither an offence under the man-made laws nor is the intoxication arising out of it cognizable. It is cognizable only if somebody under the influence of liquor indulges in abuses, or creates a row and law and order situation. In other words, according to existing laws, drinking of wine does not constitute a cognizable offence. It becomes cognizable only when it causes hurt or harm to others. The law is not at all concerned with the moral, financial and physical harm and damage, which liquor causes to the drunkard in particular and the society in general. On the contrary, the sheer act of drinking liquor is forbidden under the Shariat irrespective of the fact whether it causes intoxication, law and order situation or not. The Shariat looks at it not from the restricted angle of law and order situation but from the much wider angle of morality. In its view, safeguarding of morality is of paramount importance. As the Shariat laws emanate from the fountain-head of religion, morality is the dominant and most important feature of these laws. Islam enjoins every Muslim to conduct himself within the framework of morality and makes the establishment of a pious society as its first and foremost goal. As there is no room for modifications in religion, the Shariat laws bear an abiding and inseparable relation with morality. Since the existing laws barring a few are largely based on customs, traditions

and environment and not on any particular creed or ideology, no significant or particular importance is given to morality in these laws. Obviously, these laws undergo changes every now and then because modification is inherent in their very nature. Whenever, the habit, interest or requirement of the people, rulers or the ruling elite of the society alters, a corresponding modification in the law becomes inevitable. In any case, since the makers of this kind of law are human beings and suffer from human vices of greed and aggrandisement, they would not impose any moral restrictions on their own conduct and behaviour. Consequently, the element of morality in these laws continues to diminish day by day, till a stage comes when the champions of these laws proudly proclaim that their code of law is secular having no relation whatsoever with any religion.

Thus, in these laws moral values and ethical principles find no place. It is only rare that these laws prescribe moral restrictions. Most of the present-day codes of law have reached the zenith of this stage.

As pronounced by Almighty Allah, "verily the (true) faith to Allah is Islam" and 'one who seeks (guidance) from any faith other than Islam, it will never be accepted."

The laws of Shariat originate from the Almighty Allah. As against this, man-made laws emanate from the human brain. Consequently, the Shariat laws are respected by the ruler and the ruled alike. They firmly believe that if these laws are acted upon and implemented sincerely, they would come out with flying colours both in this mortal world and the everlasting world of hereafter. In case these laws are violated, they would earn bad name in this world and be inflicted with the severest penalty in the hereafter.

The success and value of law are judged largely by the obedience and respect it commands. On the basis of this criterion, no worldly law is comparable to Shariat laws. Another feature of man-made laws is that with the change of system of government or the rulers, this type of law under-

goes unnecessary changes and becomes a plaything of the ruler's lust and caprices. On the contrary, Shariat laws remain immune from this kind of encroachment.

As in vogue in most of the countries today, criticism of the opposition parties is generally directed towards the laws and regulations framed and promulgated by the ruling parties. By criticising and condemning these laws, the opposition endeavours to convince the people that on coming to power they would rescind these laws and replace them with better ones. The opposition members rightly believe that they are fully justified in opposing, and demanding cancellation of the laws which after all have been framed by mortal human beings. In most of the Western countries, the sanctity or supremacy of law has been diminishing and no wonder, that it may culminate in the total loss of public respect in the near future.

Laws, the foundation of which is laid on expediency and worldly interest, cannot command abiding respect of the individual or society. As long as the individual and the society feel that the laws serve their own interests, they would obey these laws. But when these laws conflict with their own interests, they raise the banner of revolt against these laws. Today, most of the laws in force in the world bear no relation whatsoever with religion, creed, morality or human uprightness.

#### **Incapability of Shariat— A Baseless Allegation**

After having studied the Shariat, I am quite clear that those who consider the Shariat as incapable of meeting the requirements and demands of the present age are altogether wrong. Their objection is baseless and without foundation. Their opinion is based neither on any academic study nor on any logical argument. For, the Islamic Shariat is better than and superior to man-made laws both from the point of view of academics and logic. It is fully capable of meeting the requirements of not only the present age but also all the coming eras of the future.

There are two groups of people which allege that Shariat is not capable of meeting present day requirements. One group is of those who have studied neither Shariat nor law. The other group consists of those who have studied law but do not know even the A.B.C. of Shariat. Thus both of them have no knowledge of Shariat or its tenets. With this ignorance, they are not entitled to pass any judgement or offer any comment on Shariat.

As a matter of fact, the opinion of these persons having no knowledge of Shariat is based on their wrong notion and not on any formal study or research on the subject. They think that the laws of the present age are quite different from those of eighteenth or nineteenth century and find no similarity or co-relation between them. They believe that the existing laws are based on the modern concepts of philosophy and sociology which did not exist in the ancient law. They infer from a comparative study of these two types of laws that the ancient law is not suitable for the present age. Undoubtedly, this view is correct so far as man-made laws are concerned. But when they apply this yardstick to Islamic Shariat, they commit a serious mistake and miss the real point. Their logic is that when the laws of eighteenth century are not suitable for the present age, the same applies to Shariat as well. Shariat, according to them, is a product of the middle ages and its laws have been in force till, at best, the end of eighteenth century. This wrong notion or converse logic is the root cause of their mistake which an intelligent critic cannot but pinpoint.

### Mistaken Notion about Shariat

To equate Shariat with man-made laws is a basic mistake. For man-made laws are the product of human brain while Shariat is endowed to us by God. So, the two cannot be equal or treated at par. To equate them is tantamount to bringing the earth and heaven, the creator and the creature at an equal footing. No person in his senses would accept this and consider himself at par with his creator or the earth with heaven.

Another misconception about Shariat is that it is bracketed with common law and placed in the same class in spite of the fact that the two differ altogether in nature and there is nothing common between them. This aspect of the matter we will discuss later.

### No Syllogism on Differents Premises

As it is established that the Shariat is basically different from man-made laws and it has a few essential characteristics which make Shariat distinct from them, no syllogism is possible, for which the presence of two premises having a common term is a pre-requisite. There can be no reasoning in the absence of common term between the two premises. If any inference is drawn from this it will be unsound.

The inference of those who consider Shariat as unworkable in the present age is based on the wrong premises of equality between Shariat and the man-made laws. Since Shariat and man-made laws are not equal, the deduction of these people is wrong and their inference based on wrong premises. It goes without saying that whatever is based on wrong is unsound.

In the following lines, we will elaborate the background of the growth of law as well as the Shariat and point out differences between them and their characteristics to enable the reader to fully grasp the difference between the two. From this elaboration and elucidation, they will be able to understand that Shariat is basically different from man-made law and that it has certain characteristics which make it distinct from the other.

### Growth of Man-made Law

Man-made law is the product of social needs. It owes its existence to the society which frames it with limited aims to meet its needs and requirements at a given time. As the requirements of the society multiply and undergo changes, and as the human knowledge and thinking expand,

the law keeps changing. New principles are introduced, fresh ideas incorporated reflecting the growth and progress in human concepts and theories. Thus, the man-made law is like a child. At birth, it is weak and small but gradually it grows and gets strength till it blossoms into full youth.

Another point worth noting in this respect is that the pace of progress of man-made laws depends on that of the society which produces it. If the pace of progress of the society is swift, the growth pace of the law will correspondingly accelerate. If the progress of society is slow, the growth of law will be similarly sluggish. Thus, the man-made law owes its existence to the society which frames it in accordance with its requirements. Consequently, the law, its life span, progress, and growth all are closely linked with the society.

According to jurists, the beginning of law dates back to the initial stage of human collective life in the shape of family and tribe. In the initial stage, every word uttered by the head of the family or the tribal chief constituted law. Then, with changes in the social life, law continued to undergo changes till the state came into being. As the habits, customs, traditions of the people, families and tribes living within a state are not similar, the state has had to frame uniform law applicable to all after trimming all the existing customs and traditions. It was no doubt, a step forward. But the law of one state differed materially from that of another. Till the end of eighteenth century, these differences continued unabated. However, a new phase of legal change started afterwards and the last phase of the growth of law commenced in the light of modern philosophical, scientific and sociological concepts. During the last phase, law underwent certain basic and colossal changes. Its foundation was now laid on such modern concepts which did not exist in the past. Due to the spread of modern concepts of justice, equality, humanity, the basic principles underlying the law in various states, to a large extent, became similar and identical. But a lot of difference still exists with regard to details.

This is a brief gist of the growth of law and its phase-wise changes. It is thus clear that the law in its initial stage was quite different from what it is today. After undergoing so many changes and alterations, it has reached this stage. These modifications have come about slowly and gradually in the course of thousands of years.

### Growth of Shariat

This is the position about man-made laws. But the case of Shariat is altogether different. It neither came into being in this way nor did it grow like this. In its initial stage, Shariat neither comprised some brief, incomplete, immature or disjointed concepts or principles, nor did it achieve perfection and maturity later. It has not come into being like a child requiring gradual growth. On the contrary, Shariat since its birth is perfect and prime. The Almighty revealed the Shariat in the form of complete, comprehensive, all-pervading code, free from all weaknesses and flaws. During a specific limited period, it was revealed to the Prophet (Peace be upon him). It started with the birth of the Holy Prophet and was completed on his death or on the revelation of the following verse:

“This day have I perfected your religion for you and completed My favour unto you, and have chosen for you as religion Al-Islam.” (5:3)

Shariat has not come for any particular community, nation, or country but equally for all mankind. It is addressed to all whether Arab or non-Arab, belonging to the East or the West, irrespective of differences among them with regard to their customs, traditions and history. So, Shariat belongs to every family, every tribe, every community and every country. It is, in fact, the Shariat of the whole world and constitutes international law. It is international in character to such an extent that jurists can just imagine.

Shariat : is perfect and immune from flaw. It is so comprehensive that it embodies solution of every problem. It is

so expansive that it meets every situation. It encompasses all matters whether they concern individuals, communities or countries. It also governs the systems of government, politics, and all affairs of the community. Besides, it also provides guiding principles and rules for international relations between Governments during peace as well as war.

**Shariat:** is not meant for any particular age or period. It is for all ages, for all times and will last and remain useful till, doomsday. Shariat has been moulded in such a way that it is neither affected by changing times nor does it lose its freshness requiring any modification in its general principles or basic precepts. It is inherently so flexible that it provides answers to every new emerging situation whether for the present there may be no possibility of emergence of that situation. That is why there is no room for any modification in the tenets of Shariat which do not change like man-made laws.

The basis of this difference between Shariat and law is that Shariat emanates from God Almighty whose words are above and beyond change.

"There is no change in the words of Allah." (10:64)

He knows everything and has command upon everything. It is not difficult for His all-encompassing knowledge and all-pervading power to prescribe for His creatures laws and tenets applicable to all times to come.

As opposed to this, man-made law is the product of human beings. Man formulates law in accordance with his requirements and needs. He has no knowledge of coming events. So, man-made laws do not cover those situations which are likely to arise in future.

Since its inception, Shariat encompasses even those modern theories to which the man-made laws have achieved access only recently in spite of the fact that from the view point of origin they are older than Shariat. Shariat, moreover, embodies in its fold some such principles and precepts which

are still beyond the imagination of our law-makers. All those principles which our law-makers and jurists wish to adopt have been incorporated in the Shariat from the very beginning.

### No Similarity Between Shariat and Man-Made Law

Having come to know this much about the growth of Shariat and man-made laws, we can say that there is neither similarity, nor parity between the two. Nor can the two be equated. The inherent nature of Shariat is altogether different from that of law. There is little similarity between them. Had the nature of Shariat been like that of man-made laws, we would have found Shariat in a quite different shape today. In that case, it would have started in the form of a few incomplete and disjointed theories and like man-made laws it too would have grown and taken strides along with the progress and advancement of society. Besides, it would have been bereft of those sublime and valuable principles and precepts which today constitute its assets and because of which it happens to be superior to man-made laws.

In the light of these elucidations about Shariat and law, the difference between the two and their distinctive characteristics can be well imagined. All the same, I would like to explain some of the basic differences and essential characteristics of the two in order to obviate any further elaboration later.

### Basic Difference Between Shariat and Law

There are two basic differences between Shariat and law:

- (1) Law is man-made while Shariat is revealed by the Almighty Allah. Both reflect the characteristics of their makers. Since law is made by man, it reflects the human weaknessess of infirmity and helplessness. That is why law keeps changing and undergoing modi-

fications. Whenever there is any unexpected change in a society or a new situation arises, law undergoes corresponding change. So, there is an inherent weakness in the very nature of law. As long as the maker of law does not attain perfection, and he is not able to foresee all coming events and situations, law too cannot attain perfection.

As opposed to this, Shariat is the product of the Almighty Lord and His power and greatness bear witness to His perfection and infinite knowledge. The knowledge of God who is All-Knowing and omniscient encompasses everything. Therefore, His Shariat too encompasses the present as well as future situations. Hence, there is no room for any change in the Shariat. In the words of Quran, "There is no change for the words of Allah." (10:64)

As such, Shariat will ever remain immune from changes whatever alterations may take place in time and space or even in human beings.

Those who don't believe that Shariat is endowed by God, are hard to be convinced. Only when they do realise the significance of the essential characteristics of Shariat which I have just mentioned, they may feel satisfied and inclined to pay heed to the arguments to be presented before them in this respect. Only then they will be able to appreciate as to why the Shariat, as opposed to mundane laws, embodies such characteristics. Only then they will appreciate the sublime qualities of the Creator of Shariat which embodies such impressive and excellent features. Further arguments on this point will be dilated upon later when the characteristics of Shariat are to be discussed. However, there are a lot of convincing arguments in every chapter of this book for those willing to ponder.

For those who believe that Shariat is an endowment from the Almighty Allah, it will not be at all difficult to accept these characteristics of Shariat. Since it is part of

their belief, they won't need any material argument for this. If one believes that the Almighty Allah created the earth and the heavens, made the moon and the stars, enabled human beings to conquest mountains, winds and high seas, caused the fauna and flora to grow, created foetus in the wombs of mothers, and subjected all His creatures to the regulations of His order from which nobody can escape and in which there is no room for any modification or change, it should not be difficult for him to accept that the Almighty Allah has framed a few such laws which encompass everything and which are so perfect that they cannot be conceived by a human mind. He will therefore, inevitably accept that everything created by Almighty Allah is a show-piece of perfection and order. He will accordingly believe sincerely and unreluctantly that Allah has endowed the Islamic Shariat as an immutable and perfect law for regulating the life of an individual as well as society and governments so that all their affairs are regulated in accordance with these laws and they lead a better life. He will also unhesitatingly accept that Shariat is so perfect that it is beyond human imagination.

If, in spite of this belief, anyone wants further arguments for his satisfaction, he will get them in the succeeding paragraphs.

- (2) The man-made laws are the product of human needs. These are framed by Society just to fulfil its own requirements and to regulate its own affairs. Thus, these laws are subservient to society. In other words, the laws which today corroborate with the level of the society will tomorrow lag behind the social conditions because they cannot change as swiftly as the society changes.

In short, man-made laws are mere temporary rules corresponding to the temporary needs of the society. Whenever there is a change in the society, a corresponding change in laws *ipso facto* becomes inevitable.

As against this, Shariat consists of those regulations which the Almighty has formulated for regulating the affairs of the society. These regulations are everlasting and ever-useful. The man-made laws and Shariat are common only to the extent that the goals of both are to regulate the society. But apart from this, they are totally different. The law is temporary and emergent while the Shariat is everlasting. These characteristics demand that.—

- (i) The regulations of Shariat should be so universal and flexible that notwithstanding changes with the passage of time in the society and multiplications and diversification of social needs they should remain ever useful and capable of meeting the requirements of the society.
- (ii) The tenets and principles of Shariat should be so high and sublime that they should not lag behind the social progress or be left behind in any age or era.

This is what the logic demands and this is so in reality. As a matter of fact, these important characteristics, the hall-mark of the Islamic Shariat, make it distinct from other heavenly Shariats and man-made laws. The tenets and principles of Islamic Shariat are universal and flexible in nature beyond imagination.

More than thirteen centuries ago the Islamic Shariat came into being. During this long period, the form and shape of the society changed so many times. Human concepts and views underwent so many changes. New and novel sciences came into being. So many wonderful discoveries and inventions which are beyond imagination came to light. The rules and principles of man-made laws underwent a lot of changes just to bring them in conformity with the requirements of the modern times. These changes and modifications were so extensive and intensive that the laws pertaining to the period when the Shariat was revealed bear no similarity to the laws of today. But in spite of enormous changes in the

social environment, the Shariat remained intact and unchanged. Even today, its tenets and underlying principles are far above the level of the society ensuring better regulation of its affairs and the world peace and tranquillity and more akin to human nature.

In support of Islamic Shariat, this is a shining testimony of history. For a more concrete proof, let us examine the tenets of the Shariat. For instance, the Almighty Allah says. "They (conduct) their affairs in consultation". And in the words of the Holy Prophet (Peace be upon him) "Islam neither harms (others) nor allows others to harm".

These injunctions of Quran and the Sunnah, it will be seen if examined minutely, embody such universality and flexibility that they will remain useful in every age and meet every situation. According to these injunctions, 'Consultation' has been made the basic principle of government. It has been further elucidated that this process of consultation should neither damage the normal order of the government nor harm the interest of the individual or the society at large. This principle of "Shura" consultation and its proviso present an irrefutable proof of the sublimity of the Shariat which no human mind can ever reach.

If we examine the injunctions of Shariat one by one, we will find that all its injunctions are sublime and universal. For instance, let us take another pronouncement of the Almighty:

"Call unto the way of thy Lord with wisdom and fair exhortation, and reason with them in the better way."

(16.125)

Just see what a universal, flexible and abiding character it has. Can a better principle be imagined than that which has been prescribed in this verse? Can human mind give us

better guideline than that mentioned in the verse? i.e.:

Invitation with wisdom, beautiful preaching with beautiful manner and argument in a decent way.

Let us have a further look at the following pronouncements of the Almighty:

- (i) "And no burdened soul can bear another's burden." (35:18)
- (ii) "Allah tasketh not a soul beyond its scope. For it (is only) that which it hath earned." (2:286)
- (iii) "Lo ! Allah enjoineth justice and kindness, and giving to kinsfolk, and forbiddeth lewdness and abomination and wickedness. He exhorteth you in order that ye may take heed." (16:90)
- (iv) "Lo! Allah commandeth you that ye restore deposits to their owners." (4:58)
- (v) "and let not hatred of any people seduce you that ye deal not justly. Deal justly, that is nearer to your duty." (5:8)
- (vi) "O ye who believe ! Be ye staunch in justice, witnesses for Allah, even though it be against yourselves or (your) parents or (your) kindred, whether (the case be of) a rich man or a poor." (4:135)

Having a close look at the above injunctions or all the injunctions of Shariat as a whole, we find them universal in nature and everlasting and useful in character. The principles and guidelines which these verses embody are so sublime that human imagination cannot even conceive beyond it.

(3) Law is framed by society which paints it with the colours of its customs, traditions, environments and historical background. This is basically because law is framed for regulating the affairs of the society and not for its guidance. Thus law is secondary to the society and subservient to its needs and changes. In other words, law is the product of society and not *vice versa*.

This was the basis of law in the beginning. But during the present century or, to be exact, after the first world war this basis has slightly changed. The Governments which were the champions of certain particular movements and wedded to new ideologies and systems used law as an instrument for guiding the people and for realising their own objectives. In this connection, communist Russia and Mustafa Kamal's Turkey took the lead. Thereafter, Fascist Italy and Nazi Germany excelled in using law for motivation of the people. Later on, other governments also followed suit. As a result, now the goals of law include besides regulation of the society, motivation and guidance of the people along the lines set by their rulers.

So far as Shariat is concerned, we do know that it is neither the product of the society nor the by-product of social changes as is the case with man-made laws. On the contrary, it is the creation of the Almighty Allah who has created everything nicely. Moreover, Shariat has not been created merely for regulating the affairs of the society as is the case with man-made laws. Its first and foremost objective, on the other hand, is to create righteous individuals and righteous community and establish an ideal government and an ideal world. That is why its tenets and principles have been more sublime than the level of the world at the time when Shariat was revealed. They are still more sublime than the level of the present day world. These tenets have presented such precepts and principles which the world could reach after centuries. As a matter of fact, there are

still certain theories presented by the Shariat which the world has not yet been able to reach. This lofty characteristic of Shariat demanded that the Almighty Lord should take upon Himself the responsibility of its formulation. So, He with all His perfection revealed it to the Holy Prophet (Peace be upon him). The Holy Prophet (Peace be upon him) was assigned the sacred duty to teach the people (the lessons of) piety and righteousness with a view to enabling them to realise the objectives of Shariat. The Shariat accomplished its mission successfully and realised the objective set by the All-knowing Allah. The Shariat led the camel drivers of the Arabian desert to the glorious height of world leadership and turned the illiterate, uncultured and uncivilised bedouins into teachers and guides of the entire humanity.

As long as Muslims acted upon the Shariat, they were blessed with fruitful results and successes. The Shariat was owned and adopted by the Muslims of the first phase, who were outwardly small in numbers and weak. Every minute they had the fear of being over-run by other communities. These very Muslims within a short period of twenty years rose to the height and glory of becoming the leaders, mentors and guides of the entire humanity. Earlier, they had no place in the comity of nations. But now, they were all in all and their drums of supremacy were trumpeted all over the world. This was the miracle of Shariat which gave the early Muslims the wealth of education, the light of civilisation. It enlightened their hearts, endowed them with sublime feelings and ideas and created awareness of self-respect and piety among them. It paved the way for establishment of complete equality and justice. It made it obligatory on its followers to cooperate in good and righteousness, forbade sin and impiety, and enabled them to appreciate that promotion of good and prevention of evil was the aim of their life and the objective of their existence, which had to be fulfilled with complete faith in the Almighty Allah and which was to be preached to the world at large.

As long as the Muslims kept a close link with Shariat, they were at the pinnacle of glory. But when they forsook it, they lost their glory and fell down from their zenith of success to the dark ditch of degeneration and decay, in which they had been groping before the advent of Islam and facing the oppression and repression at the hand of tyrants and repressors.

In this state of decay, when they looked at the Europeans, they were struck with amazement by the gigantic development of Europe. They thought that the secret of Europe's development was hidden in their "Progressive" laws and principles. Therefore, they started imitating the Europeans and tried to fashion themselves in their style. But it could hardly prove the panacea of their illness. On the other hand, it proved instrumental in aggravating it. This wrong and misconceived imitation not only brought for them misery, poverty, humiliation and disgrace but also disrupted their unity and divided them into various groups of sects. Every group basking in the sun-shine of disunity cared little for others. Thereafter, they embroiled themselves in fratricidal wars.

Had not the Muslims decayed, they would not have failed to notice the fact that their Shariat was perfect in every respect and above all kinds of flaws. The truth of the matter is that Shariat embodies comprehensive principles and guidelines for the development of society. It alone provides correct guidelines to nations, be they on the path of glory or decay. It alone can ensure them success because its foremost objective is to bring about a righteous society and lead it to glory.

The history of Muslims itself provides considerable material for our lesson, admonition and reproof. History bears witness to the fact that it was Shariat which gave Muslims new life. It bestowed upon them supremacy besides

the leadership of all nations. This proves that the survival, success and progress of Muslims all depend altogether on Shariat, as charter of their action. In short, Shariat is the real foundation of Muslims. As a matter of fact they are called Muslims because they are followers of the Shariat.

Before proceeding further, it is necessary to point out that it is no innovation of the man-made laws that today their objectives include guidance and motivation of the people. They are in fact following in the footsteps of Shariat. The foremost goal of Shariat since its inception 13 hundred years ago has been to reconstruct the society, direct it towards the right path and thereafter to regulate its affairs. If jurists claim today to have discovered new principles, they are highly mistaken. They are either under delusion or they don't know the reality.

### **Salient Distinctive Features of Shariat**

After this elaboration of the basic differences, we can easily find the essential characteristics of Shariat which make it distinct from man-made laws. As a matter of fact, the differences between the Shariat and the man-made laws constitute the hallmark of Shariat.

The first characteristic of Shariat is its perfection. That is, it encompasses all those principles and preceptions which could ever be required. From this angle, it is altogether self-sufficient, requiring no supplements from others. It is fully capable of meeting the requirements of the society not only of the present but also of the future.

The second characteristic is its sublimity, i.e., its principles and guidelines are more sublime than the society. This sublimity is everlasting. It embodies such principles and precepts the sublimity of which will continue to last irrespective of the society's progress and growth.

Thirdly, it is everlasting, i.e., the tenets and principles of Shariat will remain unchanged without any modification irrespective of the passage of time or altered situation. There is equally no room for any modification or variation. Its tenets are everlasting and abiding, capable of meeting the requirements of all ages and all circumstances.

All these three characteristics of Shariat, though distinct and different from one another, emanate from the same source and represent different manifestations of the same reality. That is, the Islamic Shariat has been revealed by the Almighty Allah and is the creation of the Most Powerful Lord. Had this not been so, the Shariat would not have been so perfect, and so sublime. These characteristics can be found only in the creation of the Creator but not in that of a weak, helpless and hapless creature.

## CHAPTER IV

### INVALIDITY OF MAN-MADE LAWS

Before the French Revolution, man-made laws in Europe, had no doubt enjoyed supremacy to a certain extent. It was only because of the fact that these laws had also embodied some moral principles and religious injunctions. A heritage of the ancient days of the Romans, these laws comprising dos and donts based on moral values and traditions, religious commandments and court precedents were being acted upon continuously since long without any break.

After the French Revolution, the law-makers of Europe started demolishing the old foundation of law. They began to build the edifice of their laws on the foundation of material benefit, outward peace and tranquillity and orderly administration. This undermined the inward and spiritual aspect of law and weakened it so much that it lost its supremacy and command over the hearts of the people. As a sequel to disregard of religious creed, and moral values, disorder and disrespect of law became a common feature. Rebellion and revolution became the order of the day. And gradually, man lost his peace of mind and inner satisfaction.

#### **Disrespect of Law Real Cause**

One of the main reasons of disrespect of modern law is that it has been divorced from religion. At the time of the French Revolution, equality of mankind and liberty of faith were trumpeted as its sublime ideals. However, for

realising these two noble objectives, the law-makers thought it prudent to divorce and separate the two from each other. They were under the misconception that one's religion or personal creed had nothing to do with law. If the two were not divorced from each other, they believed, it would be detrimental to freedom of thought and liberty of faith. Consequently, it would not be possible to establish equality of law among people of different creeds. This misconception led them to the unfortunate conclusion that morality should be divorced from law. It was a serious mistake on their part. How I wish that they should have resolved this problem on the lines postulated by Islam. Had this been done so, neither their objective would have been lost nor would it have brought about harmful results.

### **Islamic Solution**

As everybody knows, Islamic laws are based on Shariat. These laws are not secular but spiritual in nature. In accordance with the recognised principles of Islam, Islamic laws are applicable to both Muslims and non-Muslims, as citizens of a Muslim state. At the same time, equality and freedom of thought and conscience also form part of the cardinal principles of Islam. Apparently, it seems that a Muslim state having non-Muslim population would face the same difficulty which the law-makers of Europe had faced and would find the same insurmountable rock impeding its way with which the European ethical laws had earlier come into clash and smashed. But actually this is not the position.

Islam presents a simple and decent solution of this tangle. It has taken a pragmatic view of the problem instead of adopting an unrealistic approach and presented a practical solution thereof. Islam provides that the same laws will be applicable to both Muslims and non-Muslims alike with respect to matters which are of their common concern. In respect of other matters not common between them, Islam has provided different laws for Muslims and non-Muslims.

Obviously in relation to public affairs, Muslims and non-Muslims are equal. So both of them should be meted out the same treatment in public affairs. However, since they have different creeds, the question of equality in respect of matters concerning their creed is out of question. When there is no similarity or identity in their creed, equality of law in this respect would be simply meaningless.

The fact of the matter is that equality between two equivalent parties means justice. But to apply the same yardstick on two unequal parties in the name of equality will amount to sheer injustice. Thus, the principle laid down by Shariat in this respect is not against the precepts of equality. On the other hand, it is fully in consonance with the spirit of equality because its basic objective is to establish justice and equity. It will amount to grave injustice if Muslims and non-Muslims are equated in matters of observance of their religious beliefs. It will mean that they are being compelled to act upon laws contrary to their religious beliefs and deprived of their freedom of belief. To frame such kinds of law would constitute a flagrant violation of Quranic injunction "There is no compulsion in religion."

In this context, the questions of drinking of liquor and taking of pork represent an excellent example. Islamic laws differentiate between a Muslim and a non-Muslim. According to Islam, both of these (liquor & pork) are forbidden for Muslims. Under the Shariat, it is a crime for a Muslim to take them. But non-Muslims, according to whose religion these are not forbidden, are exempted from this law. Obviously, it will be gross injustice if the Shariat law is made applicable to the non-Muslims also. Similarly, it will be a contempt to their religious beliefs, if Muslims were allowed to take liquor and pork. From this example, it is quite clear that legislation of identical laws at random in respect of matters pertaining to religious beliefs, whether positive or negative, is altogether wrong and against religion.

and nature. Likewise, if law is totally divorced from religion, it will give a severe blow to the entire system of law which will lose its moral justification and spiritual force and supremacy.

### **Worst Type of Man-Made Laws**

From the preceding discussion, it is crystal clear that in comparison to Shariat laws, man-made laws are defective in all respects. But the worst and the most defective of these man-made laws are those which are framed without keeping in view the interest, characteristics and traditions of the people in whose name they are framed. Such types of laws conflict with that nation's thought, ideology, moral values conduct, characteristics and temperament. Even with brute force at their back, these laws can never command respect, obedience, or reverence of the people though they might be compelled to accept their supremacy. It is simply impossible, particularly when these laws happen to be in conflict with their creed, when these laws corrode their morality and inflict a burden and penalty on their hearts and conscience. of laws is in vain. These laws, on the other hand, are most likely to incite people's anger and enmity and lead them to revolt against these laws and inflame them to finish these laws along with their supporters. Opposition to such laws can never be crushed by force. Material force can finish the resistance which is launched with material resources for achieving material objectives. But the resistance which emanates from religious beliefs and creeds for their own sake can never be crushed. The more it is sought to be crushed the more it gains momentum and widely spreads.

### **Laws of Islamic Countries**

Most of the laws in force in Egypt and other Muslim countries belong to this category of worst type of laws mentioned above. It has already been pointed out that

these laws have failed to achieve their basic objectives. They bear no relation to our national interests or principles. As such it is altogether wrong to attribute them to us in any manner. We have neither any respect nor reverence for these laws. Nor are we willing to obey them. Islamic laws came into force in Muslim countries the day these countries embraced Islam. These laws continued to remain in force for centuries till these countries were subjugated and occupied by the imperialists of Europe. The imperialist powers promulgated either their own Western laws in these countries or trained the local Governments and prevailed upon them to imitate their master's modern laws. In support of this, it is argued that the Western laws were enforced with a view to deriving benefit from the progressive civilization and culture of the West. It were as if the Western culture had reached the pinnacle of perfection while the only reason for the backwardness of Muslims was their adherence to the Shariat laws. This argument, inspite of its hollowness, was found appealing initially by a few people only. Later on, however, it caught the imagination of a large majority of people. Thereafter it found place in text-books for being taught in schools.

### Wrong Argument

Had the champions of this argument considered the matter dispassionately and minutely, they would have come to the conclusion that their argument was entirely wrong and baseless. Had they given some thought to the matter, they would have appreciated that the laws of which they were so much enamoured were all derived from the ancient Latin Laws. During wars between the Muslims and the Romans, these laws could not prove useful to the Romans, and the Muslims destroyed that great empire completely. Similarly, in the crusades, the entire Europe was given a humiliating defeat by the Muslims in spite of the fact that the Roman laws reigned supreme at that time throughout

Europe. Moreover, it is not difficult to find out from a study of history that Muslim Ummah started its life as a small and weak community. It faced every moment the threat of being annihilated. But the state which came into being on the basis and strength of Islamic Shariat twenty years after the death of Holy Prophet (Peace be upon him) was so strong and powerful that it obliterated the Persian empire from the map of the world and freed Syria, Egypt and North Africa from the shackles of the Roman empire. Thereafter, the Muslim continued to be leaders of the world for hundreds of years. They crushed the crusaders, subjugated Tartars and hoisted the flag of Islam over Eastern, Southern and Western Europe where the affairs of the state and the government consequently continued to be run in accordance with Islamic laws.

How I wish that these simplicists should have cast a look over Egypt of the recent past. During the period of Mohammad Ali Pasha, Egypt was more powerful than most of the European countries. At that time Egypt had lashed out the French and confronted the British over the high seas. The Egyptian forces had blunted the Greeks in their homeland in spite of the fact that several countries of Europe were helping and aiding Greece. Had not the European countries, under a conspiracy, rallied against Muslims, Hejaz (Saudi Arabia), Sudan, Syria, Turkey and Egypt would have united under one banner. During all these periods, Islamic Shariat, not European law was in force.

Notwithstanding all these facts and events, if anyone attributes the decline of Muslims to the Islamic Shariat and the progress of the Europeans to the Western laws, what else can be said except that sometimes sluggishness and vested interest make one deaf and blind. Such foolish people should better study the history of Muslims and Western nations and try to know the real cause of their victory.

"Have they not travelled in the land, and have they hearts wherewith to feel and ears wherewith to hear? For, indeed it is not eyes that grow blind, but it is the hearts, which are within the bosoms, that grow blind." (22:46)

### Decline of Muslims Was Not Due to Adherence to Islamic Shariat but to Forsaking It.

Shariat is not at all the cause of decline of Muslims and their down fall. As a matter of fact the Shariat Laws are the finest, and the most sublime of all laws of this world. Not a single concept of laws has so far been discovered which is not available with the Shariat in its best and perfect form. The jurists have not yet presented any such modern concept of law which the Shariat does not encompass with all its details. The Muslims today are backward, disgraced and despised not because they are following the Shariat laws, but only because they have forsaken it and no longer act upon it. Today Muslims all over Muslim countries are Muslims in name only. In their thoughts and deeds, they, with a few exceptions, are not Muslims.

Had the novelty in law been the real governing factor for the progress of nations, Belgium would have been far more powerful and advanced as the laws of Belgium are the most modern while many a law of England are antiquated. Many of the British laws date back to the period when England was in a bad shape and enjoyed hardly any position in the comity of nations.

Again, the people who consider Islamic Shariat as antique and out-of-date suffer from misconception and ignorance. The Shariat laws as compared to most of the European laws are not old but new. This is because the European laws are based on Roman laws and their growth has been within the frame-work of the principles laid down by

Roman laws. All the essential and basic precepts and theories which permeate through these laws are the same which the Roman jurists had laid down. The elucidation and interpretation of European laws is accomplished within the limits and principles enunciated by Roman law barring exceptional cases. Thus it is evident that from the point of its root and origin Islamic laws, in comparison to European laws, are new, not old. Islamic laws are rooted in the Holy Quran and the tradition (Sunnat) of the Holy Prophet (Peace be upon him) while the Roman laws were framed long before the revelation of the Holy Quran.

Muslims should always remember that Shariat is the cause of their coming into being, of their being made the best of all nations and of their being crowned with success. It is Shariat which taught and trained them, blessed them with education and sciences and with dignity and honour. It is Shariat which infused them with courage and determination. It created among them such leaders and conquerors who founded great states all over the world. It produced such scholars and Ulema who made unprecedented contribution in the field of knowledge and literature.

Muslims should always remember that Islamic law was the first of the lot which gave a practical shape to the concept of equality of mankind and justice without fear or favour. Islam made it obligatory on Muslims to promote good and prevent evil. With respect to the realisation of these objectives, man-made laws are far behind the Shariat laws and can never catch them up.

Muslims should know that as long as they followed and acted upon the Shariat laws, the glory and victory was theirs. When they forsook the Shariat, they returned to the darkness and backwardness of the pagan period that existed before the advent of Islam. No wonder, weakness, disgrace and poverty then seized them. They were rendered incapable of defending themselves from the encroachments of transgressors.

Muslims of the early period reposed their complete faith in Islam. And the truth of the matter is that they discharged the duty of their faith to their utmost ability. The Almighty Allah who blessed them with power and strength in spite of their weakness and scant numerical strength, can also bestow on us similar power and strength provided we fulfil our obligations towards our faith.

This is the word of Allah to the faithfull. It goes without saying that nobody can surpass God in the fulfilment of promises.

"Allah hath promised such of you as believe and do good works that He will surely make them to succeed (the present rulers) in the earth even as He caused those who were before them to succeed (others)".  
(24:55)

"Now hath come unto you light from Allah and a plain scripture, whereby Allah guideth him who seeketh His good pleasure unto paths of peace. He bringeth them out of darkness unto light by His decree, and guideth them unto a straight path.'

(5: 15-16)

### **Invalidity of Man-Made Laws**

Every law conflicting with the Holy Quran & Sunnah, its principles, precepts or spirit, is entirely wrong and void. Obedience to any such law is not permissible for Muslims who are enjoined, instead, to wage war against it. The dos and donts prescribed by Shariat are not meaningless. The Almighty Allah has sent His Book and His Apostle for the purpose that people should obey them. The conduct of one who acts upon the Shariat brought by the Holy Prophet is right. The conduct of one who goes against Shariat is likewise wrong. The Almighty Allah says:-

"We sent no Messenger save that he should be obeyed by Allah's leave." (4:64)

"And whatsoever the messenger giveth you, take it. And whatsoever he forbiddeth, abstain from it." (59:7)

### **Grounds of Invalidity**

In Islam the sources of Law-making are the Holy Book, Sunnah and Ijma(consensus). All these three embody a number of arguments to the effect that the laws or the process of law-making which exceed Shariat would be wrong and void. The injunction of the Holy Quran and Sunnah, in this respect are quite clear and final. In view of these injunctions, consensus was inevitable. Some of the arguments about invalidity of non-Shariat laws are given below:

I. The Almighty Allah has specified two forms of obedience and adherence. Either it is obedience to the commandments of God and His Apostle or it is adherence to one's lust and greed. There is no other form in between. One is pure and simple righteousness while the other is nothing but sin. The Holy Quran Says:

- (a) And if they answer thee not, then know that what they follow is their lusts. And who goeth farther astray than he who followeth his lust without guidance from Allah? (28:50)
- (b) " O David! Lo! We have set thee as a viceroy in the earth; therefore judge aright between mankind, and follow not desire that it beguile thee from the way of Allah." (38:27)
- (c) And now have We set thee (O Muhammad) on a clear road of (Our) commandment; so follow it, and follow not the whims of those who know not. (45:18)

(d) (Saying): Follow that which is sent down unto you from your Lord, and follow no protecting friends beside Him. Little do ye recollect. (7:3)

These Quranic verses have characterised adherence to anything against the provisions of Shariat as altogether forbidden and completely prohibited adherence to anything other than Shariat. Anyone who does so is categorised as follower of lust and greed. Such a person is on the wrong path. He is a transgressor, a rebel against the commandments of God and one who after forsaking God makes others his lord.

II. The Almighty Allah has forbidden obedience to other than Allah. For a Muslim obedience to anyone other than Allah is not permissible. Anyone who does so has been described as a follower of Satan (Devil):

"Hast thou not seen those who pretend that they believe in that which is revealed unto thee and that which was revealed before thee, how they would go for judgement (in their disputes) to false deities when they have been ordered to abjure them? Satan would mislead them far astray." (4:60)

So, whosoever does not get his affairs adjudged in accordance with the teachings of the Holy Prophet revealed to him by Allah, he is surely one who has made Evil his adjudicator. Any of the creation of God who exceeds the limits of servitude, and glorifies himself to the position of being worshipped, owed allegiance and obeyed is nothing but Evil. Since one who is made an arbitrator for adjudicating mutual disputes is either worshipped or unconditionally obeyed, he falls within the definition of Evil. It is not legitimate for one who believes in Allah to repose his faith in anyone else other than Allah. Likewise, it is not legitimate

for one who has given word to seek judgement from Allah to turn to anyone else other than Allah for seeking justice.

**III.** No faithful, man or woman, is permitted by God to excercise his freedom with respect to any such matter on which a verdict has been pronounced by Allah or the Holy Prophet (Peace be upon him). Whosoever does so, commits the crime of disobedience to God. He should better care for his faith. According to the Holy Quran such a person is an unbeliever, wrong-doer and rebel:

And it becometh not a believing man or a believing woman, when Allah and His messenger have decided an affair (for them), that they should (after that) claim any say in their affair; (33.36)

**IV** The Almighty Allah ordered the Holy Prophet (Peace be upon him) to adjudge every matter in accordance with the commandments revealed by Him.

- (a) "So judge between them by that which Allah hath revealed." (5:48)
- (b) "Lo! We reveal unto thee the scripture with the truth, that thou mayst judge between mankind by that which Allah showeth thee." (4:105)
- (c) "Whoso judgeth not by that which Allah hath revealed; such are disbelievers." (5:44)
- (d) "Whoso judgeth not by that which Allah hath revealed such are wrong doers." (5:45)
- (e) "Whoso judgeth not by that which Allah hath revealed; such are evil-livers." (5:47)

It is unanimously agreed upon among Muslims that if

a Muslim resorts to adjudication of his affair in any other manner than in accordance with the commandments revealed by Allah, he will come under the category of either of the three verses of Allah. For example, if anyone wants to get the case of theft, Qazf (imputation of Zina to any person intending to harm his reputation or hurt his feeling) or illicit sexual intercourse in accordance with non-Islamic laws because he considers them better and superior, in that case he is an unbeliever beyond any shadow of doubt. If a person recognises the superiority of Islamic laws but due to some compelling reasons or weakness of his faith, he resorts to adjudication by non-Islamic laws, he cannot save himself from falling in the category of a rebel. If he encroaches on the rights of others and inflicts injustice, then he commits the wrong of tyranny.

V. The Almighty Allah on oath of His person has stated that one cannot become a Momin-faithful-unless and until he makes the Apostle a judge and arbitrator in all his affairs, big and small. Moreover, acceptance of such a commandment in theory alone is not sufficient for completion of one's faith. It is imperative for affirmation of one's faith, that the act of submission to the Holy Prophet (Peace be upon him) should be accomplished open-heartedly sincerely and voluntarily. Evidently, the Holy Prophet's decision will be based on the injunctions of Holy Quran or on the far-sightness and wisdom which he demonstrated in the form of Sunnah Tradition.

“But nay, by thy Lord, they will not believe (in truth) until they make thee judge of what is in dispute between them and find within them selves no dislike of that which thou decidest, and submit with full submission.” (4.65)

VI. Whatever is forbidden by Islam remains forbidden even if worldly laws and regulations characterise it lawful. The

right to legislation and law-making under Islam is limited and restricted. This right can be exercised by even a Muslim within the limits prescribed by Islam. If any Government exceeds these limits and starts making and promulgating such laws for which there is no room in Islam, then a Muslim is not bound, according to Shariat, to follow and act upon these laws. On the contrary, it is incumbent on him to try and endeavour to get them changed.

"O ye who believe! Obey Allah, and obey the messenger and those of you who are in authority; and if ye have a dispute concerning any matter, refer it to Allah and the messenger if ye are (in truth) believers in Allah and the Last Day. That is better and more seemly in the end." (4:59)

The Almighty Allah has commanded obedience to Himself and the Holy Prophet (Peace be upon him). The repetition of the words "obey" in the above verse indicates that obedience to the Holy Prophet is of permanent nature. It is obligatory on us to obey whatever is stipulated by the Holy Prophet irrespective of the fact whether it is mentioned in the Holy Quran or not. As the Holy Prophet (Peace be upon him) has himself stated that he has been endowed with the Holy Quran along with another similar thing.

It is worth noting that with the words "those in authority" in the above verse, the word of "obey" has not been repeated, because this obedience is not contemplated to be of a permanent nature. It is subject to the obedience of God and the Apostle. Similarly, it is note-worthy that a reference to those in authority is the last in order of precedence. Allah comes at the top and then comes the Holy Prophet. It means that obedience to Allah and the Holy Prophet has precedence over that of those in authority. Obedience to Government becomes obligatory only after the part of

obedience to Allah and the Holy Prophet is duly accomplished. As such, the Government or those in authority which issue orders in consonance with the commandments of the Almighty and His Apostle are to be obeyed. Anybody who gives orders against this (Quran, Sunna) has no right to be heard and obeyed.

### **Non-Shariat Laws: Arguments Repudiating Their Validity**

VII. Besides Holy Quran, the Sunnah has also laid down in explicit terms the limits of obedience to those in authority and forbidden their obedience against the injunctions stipulated by God. The following traditions make it quite clear.

- (a) Against the creator, no obedience to the created is permissible. It is permissible only in righteousness.
- (b) Don't listen and don't agree to any order of those in authority if it entails disobedience to Allah.
- (c) Whether he likes it or not, it is obligatory on a person to listen to and obey those in authority except where he is called upon to disobey Allah. In that case, he is not bound to obey or listen.
- (d) After me, would follow such rulers who would efface the Sunnah, give currency to innovations and delay the time of prayers. When Ibn-e-Masud asked the Holy Prophet (Peace be upon him) as to what he was supposed to do if he found himself among such rulers, the Holy Prophet replied. O, son of Umme-Abd; obedience to one who disobeys the Almighty Allah is not permissible. This he repeated for three times.

VIII. After the Holy Prophet (Peace be upon him), a consensus of the Islamic Ummah has emerged to the effect that

obedience to authorities is permissible if it is compatible with the commandments of the Almighty. The jurists and Mujtahids are unanimously of the view that the Almighty Allah is the real and sole authority. There is no difference of opinion of the issue, theoretically or theologically. There is also consensus with regard to the issue that to consider as permissible those things or acts the "hurmat" (ban) of which are agreed upon, amounts to disbelief and renegation. For instance, if anyone considers liquor or illicit sexual relations as permissible or regards anyone else other than Allah and His Apostle as the final authority, this thought of his amounts to sheer disbelief. Similarly, if any ruler indulges in open disbelief and renegation, waging boycott war against him is obligatory. The lowest form of this boycott is that the rulers' do's and dont's which are in conflict with Islam should be opposed tooth and nail.

IX. In accordance with the principles of Islam, the Government functionaries of an Islamic state do not enjoy unlimited powers to make laws. Their authority for legislation is subject to the following two conditions.—

1. Firstly, the laws which they make are complimentary to Islamic injunctions. That is they can frame rules and regulations for ensuring enforcement and implementation of Shariat injunctions.
2. Secondly, the laws which they make are administrative in nature. That is they can make laws which are necessary for ensuring order and discipline in the Islamic society and for meeting its collective needs.

The second type of legislation comes into play only in a limited circle where Shariat is silent. One gets an impression about this type of laws that there would be no restriction on the formulation of these laws. But as a matter of fact, we don't enjoy unlimited authority in the legislation of this kind of laws for which we have to always keep in view the spirit

and general principles of Shariat. In the light of these, the administrative laws are to be framed. Truly speaking, the legislation of both types of laws is subject to the limits prescribed by the Almighty Allah. Our rulers and legislators are, on the one hand, the deputies of the Holy Prophet (Peace be upon him). Besides, they also represent the Islamic Ummah. As the Apostle's deputies, it is not lawful for them to go beyond the Holy Book and Sunnah. Similarly, as representatives of Muslims, it is not possible for them to go against the collective creed and concepts of Muslims. They have been entrusted with the position to deputies for the Apostle and represent the general mass of Muslims in order to uphold and promote Islam and not to work for its destruction.

X. The Shariat is the base of the constitution of Muslims. As such, laws which are in consonance with it will be lawful and those in conflict with it void. Shariat is liable to be followed so long as it is not cancelled. A Book of God can be cancelled by another Book of God and the Sunnah of a Prophet by that of another Prophet. Since the chapter of revelation of Book and coming into being of Prophets has finally closed already, the question of amendment in the Islamic Shariat does not arise. Nor can man-made laws take the place of Shariat laws.

## CHAPTER V

### INCONSISTENCY OF EGYPTIAN LAWS

The grounds in general with respect to the repugnance of man-made laws have already been stated, but there are other grounds as well of the inconsistency of Egyptian laws. One of the reasons is that most of them are in conflict with the Egyptian constitution. The Egyptian constitution contains specific provision that the state's formal and official religion is Islam. This means that Islam is the constitutional cornerstone of our whole legal system. Islám is the fountain-head of our guidance in the matter of legislation. As a matter of fact, this constitutional provision restricts our politics, our social life and our internal and external policies. We are not empowered to make laws exceeding the limits stipulated by the Islamic Shariat or conflicting with the spirit of Islam. Hence, according our constitution, it is imperative on every Egyptian to regard all non-Islamic laws as wrong since they are against and conflict with the constitution.

Administrative law is always subservient and subordinate to the constitutional law. If there is any conflict between the two, it becomes necessary to declare the former *ipso facto* as null and void. Accordingly, the Egyptian courts have been decreeing such laws as *ultra vires* of the constitution. For example, the Supreme Court of Egypt in its decision of 1965 declared that if any law overlooked or ignored any of the constitutional provisions, that law would be *ultra vires* of the constitution. According to this verdict,

the court declared a law passed by the Upper House as invalid and void.

Observance of constitutional limitation in legislation is the best guarantee for the supremacy of constitution and the strength of law. Courts have the inherent right to interpret and enforce the law in its true spirit and in case of dispute, decide as to which one is in consonance with the constitution and which is against it. It is, moreover, imperative for courts to declare the laws conflicting with the constitution as void and establish the supremacy of constitution as the supreme law of the land. In respect of adherence, constitution enjoys priority over the common law.

As regards common law, it is a recognised principle that these laws are interpreted, if they are in conflict with the known and established concepts of law, in a manner compatible with the basic aims and objectives of the supreme law. In the case of Muslim Ummah, it is a settled fact that it cannot exceed the limits of Islam. So it is imperative that foreign laws before being enforced in the Muslim countries are moulded in the frame-work of Islam and their un-Islamic portions removed.

We have already seen how the Western laws in force in our country have failed to achieve their basic objectives and how they are in conflict with the well known principles of law. From this angle too, it is necessary that the un-Islamic aspects of these Western laws are given up and that they are not adopted without necessary amendments.

#### **Impact of Western Laws**

These laws have been framed for certain countries the environment of which is totally different from ours. We have little in common with the people of these countries. These laws embody both good and evil. Some portions of

these laws are compatible with our belief while others are against it. Some are in accordance with our moral values and habits while others are not. Some of these are acceptable to our hearts and conscience while others evoke nothing but contempt and hate..

These laws have polluted our thoughts, disrupted our minds, disturbed our hearts and bedevilled our life. These laws have created disunity in our ranks, shocked our hearts with grief and sowed seeds of bitterness in our bosoms. These laws have created among us a strange kind of logic, dangerous type of contradiction, uncertainty and uneasiness. We characterise the same thing as permissible and forbidden simultaneously. We do have a creed but act against it. This defect and contradiction is reflected in every matter of our life, important or unimportant.

### **Position of Egypt**

Let us take the example of Egypt. This country gives the lead to Muslim countries in all sectors of life. Evidently, while talking about Islam, we would speak of all sectors of life. Islam guides us in all matters big and small and thus leads us to a fruitful and magnificent life in this world and the Hereafter. If our system of Government politics, economy and social life are regulated by Islam, it will manifest our obedience to Allah in the same way prayer, fasting, Haj and Zakat do.

From one angle, Egypt is the heart and brain of the Muslim world. Islam came to this country during its initial stages. More than thirteen hundred years ago, Egypt embraced Islam at the hands of the Holy Prophet's companions. The inhabitants of this country responded to the call of Islam so heartily that today there are not more than five per cent non-Muslims in the country. Located in this very country is the Al-Azher University, the largest and the oldest of all universities in the entire Muslim world. It imparts Islamic

education exclusively. Students from all over the world come here and after attaining religious education, return to their homelands to enlighten their fellow country men with the profound knowledge acquired here.

Since very long, this country has been considered as the dome of Islam. This is the country which blunted the onslaughts of crusaders and Tartars. This is the land which has always been waging a relentless war against zionism and imperialism. This is the country which has always foiled the evil designs and deceitful conspiracies of the enemies of Allah and his religion. This country has been during every period of history the citadel of Islam, the focal point of ulema and reformists and the shelter of Mujtahids of Islam.

During early periods, several movements for the revival of Islam had originated from this country. At present also, a new Islamic movement has started from here. It is the strongest and the largest revolutionary movement for the revival of Islam. Originating from Egypt, it has spread over the entire Muslim world. It has united the Islamic elements of the Muslim countries like pearls into one necklace. It has prepared a new generation of Muslims having the same and identical objectives and line of action. The movement is advancing towards its cherished goal. The Holy Quran is its constitution and the Holy Prophet (peace be upon him) its leader. Martyrdom in the way of Allah is the yearning of their hearts. By God, these people are truly faithful who have fulfilled the undertaking given to God Almighty. Some of them have already offered the supreme sacrifice (of their life) while others are awaiting their turn. They have not gone back on their words. 1

As a matter of fact, the above is a paraphrasing of the following verse of the Holy Quran:-

"Of the believers are men who are true to that which they covenanted with Allah. Some of them have paid their vow by death (in battle), and some of them still are waiting and they have not altered in the least;"

(33:23)

Since Egypt has rendered valuable service and made valuable contribution to the cause of Islam in the ancient as well as modern times, it has become the centre of religious aspirations of Muslims. This country has always played an important role in the defence and propagation of Islam. Today also the people of this land are prepared and ready to lay down their lives for the cause of Islam.

### **Other Side of Picture**

On the other hand, let us look at what this very country, Egypt, which claims to be the champion and defender of Islam, has done to Islam by adopting European laws. These modern laws have been borrowed from France, which is the centre of atheism and unchastity or from England, which is busy day and night in conspiring against Islam, or from Italy, the entire history of which represents its vain confrontation with Islam. These laws have been derived from such non-Muslim nations which claim to be the followers of Christianity but they have actually forsaken the teachings of Christ. These nations claim to believe in the prophethood of Christ but actually their entire collective life is based on polytheism, infidelity, and evil.

Egypt is a Muslim country. A Muslim rules over the country. The official religion of the state is Islam. It is one of the functions of the state to patronise Islamic ways of life, safeguard mosques and auqaf and revive and preserve the Islamic education, culture and civilisation. It also devolves on the state to establish the nation's politics, social life, economy and moral values on Islamic principles. All these matters relate to the characteristics of an Islamic state. But despite these declarations, the Egyptian Government has suspended the Islamic Shariat for the sake of

Western laws, and allowed even those things acts which are forbidden and prohibited those, which according to Islam, are legitimate.

The Egyptian Government has enforced English laws instead of Shariat laws even though these laws are in conflict with Islamic injunctions and inferior to them in all respects from academic and technical point of view. Thus instead of reviving the Islamic civilization, its grave is being prepared. The Government feels no compunction in adopting a strange and contradictory method for establishing Islam and bringing about its revival although the Holy Quran has clearly said:

- (a) "And now have we set thee ( O Muhammad) on a clear good of (Our) commandment; so follow it, and follow not the whims of those who know not." (45:48)
- (b) "(Saying): follow that which is sent down unto you from your Lord, and follow no protecting friends beside Him. Little do ye recollect!" (7:3)
- (c) "But nay, by thy Lord, they will not believe (in truth) until they make thee judge of what is in dispute between them and find within themselves no dislike of that which thou decidest, and submit with full submission." (4:65)
- (d) "Whoso judgeth not by that which Allah hath revealed: such are disbelievers." (5:44)

Every intelligent person can easily draw his own conclusion about the Governments of Muslim countries which, notwithstanding these commandments of the Almighty Allah, have suspended them. Indeed, he will feel no hesitation in saying that these Governments are inviting the people towards infidelity and encouraging them to commit blasphemy.

## Forbidden Things Are Permissible in Egypt

The Egyptian Government whose official religion is Islam has allowed transaction of interest in various forms. People are even induced and offered attractions to increase their wealth through interest (earning investments), although this Government is fully aware that Islam has forbidden it in every form:—

- (a) "Those who swallow usury cannot rise up save as he ariseth whom the devil hath prostrated by (his) touch. That is because they say: Trade is just like usury; whereas Allah permitteth trading and forbiddeth usury." (2:275)
- (b) O ye who believe! Fear Allah, and give up what remaineth (due to you) from usury, if ye are (in truth) believers:

And if ye do not, then be warned of war (against you) from Allah and His messenger. And if ye repent, then ye have your principal (without interest). Wrong not, and ye shall not be wronged." (2:278—279)

Even liquor, gambling and pork are permissible in Egypt. The Government has allowed both men and women to assemble at public places, to use these forbidden things, establish shops of these articles in open markets, although the Government is fully aware of these Quranic injunctions.—

- (a) "Forbidden unto you (for food) are carrion and blood and swine-flesh and that which hath been dedicated unto any other than Allah," (5:3)
- (b) "O ye who believe! Strong drink and games of chance and idols and divining arrows are only

an infamy of Satan's handiwork. leave it aside in order that you may succeed." (5:90)

According to the Holy Prophet:

- (a) Whatever causes intoxication comes under the definition of liquor and is forbidden. Whatever if used in large quantity causes intoxication is forbidden. It is so even if used in small quantity.
- (b) The curse of Allah is on liquor, the one who takes it, who gives it, who processes it, who rectifies it, who sells it or buys it, who transports it, who receives it and who uses its earnings for subsistence.

The Government of Egypt feels no shame in buying liquor and offering it at official and public functions. Thus our rulers rightfully deserve the aforementioned curse.

This very Government has characterised as legitimate dance and musical concerts in which men and women embrace each other and under the influence of intoxication dance in a state of half-nakedness. Is it not an open invitation and publicity for obscenity and does not the Government know that:

1. "Lo! those who love that slander should be spread concerning those who believe, theirs will be a painful punishment in the world and the Hereafter. Allah knoweth. Ye know not." (24:19)
2. "And come not near unto adultery. Lo! it is an abomination and an evil way." (17:32)

According to Islamic teachings, the marriage of a man guilty of fornication with a pious woman and vice versa is forbidden:

3. "The adulterer shall not marry save an adulteress or an idolatress, and the adulteress none shall marry save an adulterer or an idolater. All that is forbidden unto believers." (24:3)

### Lack of Religious Education

The official religion of the state of Egypt is Islam. But in this very country, the English, the French and the Italian missionaries enjoy complete freedom to establish their missions and make the Muslim children irreligious. The history of Islam and Muslims is not imparted to students in the missionary schools while the history of European countries is taught to them under a well-thought-out scheme. The Holy Prophet (Peace be upon him) has stated that the foundations of Islam are the Kalama-e-Shahadat, offering of regular prayers, payment of Zakat, fasting during Ramazan and pilgrimage to Mecca (the House of God). Is our Government not aware that it is obligatory for it to make arrangements for teaching these basic principles to every Muslim. According to the Holy Quran.

"And the believers should not all go out to fight. Of every troop of them, a party only should go forth, that they (who are left behind) may gain sound knowledge in religion, and that they may warn their folk when they return to them, so that they may beware." (9:122)

The Holy Prophet has said:

"Whomsoever God wishes to do good, He endowes him with understanding of religion. No adoration of God is better than comprehension of religion. One who comprehends religion is heavier for Satan than thousands of worshippers. Everything is based on a pillar. The pillar of religion is com-

prehension. Your best religion is that which is simple and the best adoration is the comprehension of religion."

### Persecution of Pioneers of Islam

The "Islamic" Government of Egypt opens a front against every such person who preaches Islam to the people and tries to prevent the Government from taking wrong and shameless measures. The Government (instead of making amends) sets in motion and invokes these very laws against such persons, imposes restrictions on their tongues and pens and on their speeches and writings. It puts them in jail and inflicts upon them various forms of atrocity and persecution. All this is done only because these persons are sincere to Islam and cannot tolerate commitment of any un-Islamic act on the part of anyone. Does not this Government know that promotion of good and prevention of evil is obligatory upon every Muslim. It is the duty of every Muslim to prevent evil in accordance with his ability. The Almighty has said:

"And let there be from you a nation who invite to goodness, and enjoin right conduct and forbid indecency." (3.104)

We have already defined what is right and what is wrong and quoted the Holy Prophet's words:

"One who sees evil should strive to change it by his hand. If it is not possible for him, then he should change it with his tongue. If even this is beyond his power, ability, he should at least consider it as evil in his heart and have the desire to change it. This is the weakest form of faith"

## Deviation from Shariat Laws

Our Government is fulfilling the demands of Islam by deviating from every Islamic injunction one after another. Islam has enjoined Zakat as compulsory. But it has been kept suspended by the Government. On the other hand, dozens of European and American laws have been enforced in the country although better and superior laws derived from Shariat could have been easily enforced in their place. The jurisdiction of Shariat Courts is being restricted day by day as they happen to be an instrument of enforcement of Islamic injunctions. A proposal for setting up an Institute of Islamic laws and Jurisprudence had been under consideration since long. Even financial provision for it was made in the budget several times. But it is being ignored continuously only because it is apprehended that it will prove instrumental in popularising and strengthening of the Shariat Laws. For our Government it is very easy to abandon the Islamic laws and adopt blasphemous laws. But it is very difficult for it to forsake blasphemous laws and adopt Islamic ones. Does it not know that, according to the Holy Quran, the first and foremost duty of an Islamic Govt., is to uphold Islam and to obliterate polytheism. It is obligatory on its part to conduct all its affairs in accordance with the teachings of Allah:

- (a) "Allah hath promised such of you as believe and do good works that He will surely make them to succeed (the present rulers) in the earth even as He caused those who were before them to succeed (others), and that He will surely establish for them their religion which He hath approved for them, and will give them in exchange safety after their fear. They serve Me. They ascribe nothing as partner unto Me. Those who disbelieve henceforth, they are miscreants." (24:55)
- (b) "Those who, if We give them power in the land, establish worship and pay the poor-due and enjoin kindness

and forbid iniquity. And Allah's is the sequel of events."  
(22:41)

### Cause of Egypt's Slavery

Egypt is still striving for freedom and independence. Let us see how this country struggled for independence and how it failed due to its deviation from Islam. During the later part of the last century, there erupted an internal turmoil in the country. As a result, the British came to Egypt in 1882 on the pretext of helping the Egyptian monarch and saving the Egyptian people. Before this they had endeavoured time and again to intrude into Egypt but without any success. The British tried to instal themselves in Egypt twice after the Franco-Egyptian war but on both occasions they failed miserably. During the period of Mohammad Ali Pasha they tried once again to intrude into Egypt but were pushed back across the sea. Consequently, they returned to their home empty-handed, disgraced and disgusted. They were dismally disappointed that they would never be able to enter into Egypt, by virtue of their strength.

Thereafter, the British started playing tricks and deceit and hatching a series of conspiracies waiting for an opportune moment. At long last, the incident of Arabia took place for which the British had themselves paved the way. They ignited the ambers of fire into full flame. On the pretext of restoring peace, the British made their intrusion into Egypt. Their goal, however, was to establish their control over Egypt and keep it under their subjugation for ever. They declared time and again that their presence in Egypt was purely temporary and they would quit the country very soon. But it was a sheer mis-statement and they never kept their word. They continued to loot Egypt, suck its blood and rob the honour of the people of Egypt.

When the designs of these sea-pirates became clear they were exposed, the whole nation stood up against them fully

determined to push them out of their homeland. Our leaders and rulers affirmed to lead the nation towards this goal. But, unfortunately, these leaders and rulers adopted a policy of humility and acted like beggars for the realisation of their noble objective.

They were expecting from the usurpers that they would themselves discontinue their tyranny when their sense of justice was awakened. This was sheer illusion, entirely based on their simple-mindedness, to say the least. Only those completely ignorant of history and human nature could have this misconception. Had there been an iota of justice and equity in the hearts of usurpers the world would not have come across imperialism and barbarism, etc.

The attitude of the Egyptian Government about achievement of independence was not only against logic and common sense but also contrary to Islamic teachings. Had our rulers tried to seek guidance from the common human nature or tried to seek guidance from the common human They would have realised that Jihad by sword is the only way for achieving independence. No wonder the Islamic injunctions, one finds, are in consonance with the demands of nature and common sense as the Holy Quran says about Islam:

“The Nature (framed) of Allah, in which He has created  
the man.” (30:30)

The Holy Prophet (Peace be upon him) described Islam as the religion of nature.

### **Bitter Results of Man-Made Laws**

The harmful and damaging effects accruing from the enforcement of man-made laws in Egypt are not hidden from a sensible and intelligent person. These laws have completely

turned our society into an un-Islamic one. Even no smell of Islam remains there. There is no unity or cooperation among our officials, leaders and opinion-makers. They are now divided into groups within groups and have fallen apart. Everyone is busy in conspiring against the other and levelling allegations right and left. Hurling abuses and invectives against each has become a matter of routine. Everyone is bent upon humiliating the other and achieving supremacy at the cost of the other. They would not mind even using the heads of others as a ladder for their own progress and advancement. Foul and dubious means having no relation with Islam are being employed for achieving these mean objectives. These people have torn into pieces the costume of their honour and respect and presented themselves as the worst example of character to their successors.

The hallmark of Islam—justice without fear or favour for which Islam was earlier known far and wide, no longer exists in Muslim countries. In our country it exists only in name. In its place, mutual acrimony, enmity, distrust and transgression prevail. Every political group is endeavouring to topple the other and assume power. Every one who comes to power proves worse than his predecessors. When he is criticised, he recounts the faults and shortcomings of his predecessors to justify his own shortcomings. Thus, one misconduct provides justification for other misdeeds. As a result, we have fallen deep into the abyss of misconduct and corruption. Neither we follow any principle nor do we adhere to any creed. We worship our lust and lascivious passion. Self-aggrandisement has become our goal. People bow their heads before every rising sun in the firmament of power. No sooner he appears declining, than the people turn their back on him and make a mockery of him.

Since the ruling elite is corrupt and dishonest, corruption and dishonesty is rampant among the entire nation. There is only a small group of people in the country which

still has some sense of moral values and honesty. What is more painful is the fact that our younger generation and the elite feel that progress and culture means that the man should give up the piety of his conscience, the sense of his responsibility and other essential human qualities. Pious and righteous persons are regarded as out-dated.

Our youth is entirely unaware of his religion and creed, far away from knowledge and its practical implementation. The young are busy all the time in make-up with the help of combs and mirrors in adorning themselves with novel costumes. There is hardly any difference between their dresses and those of actors and actresses. Their reins are in the hands of their lust, which continues to lead them to disgrace from one street to another. Most of them fall easy prey to Communism, as they have received no such education at their homes or schools which could save them from disruptive ideas and heretical ideologies. To our sons of soil everything is allright if it could be of help in the realisation of their nefarious objectives. Consequently, theft, bribery, fraud, betrayal and treachery are considered as legitimate provided they could help in acquiring wealth, honour and power.

Everybody is jealous of the other and wants to grab what is possessed by the other. The farmer is jealous of the landlorder, the labour of the factory-owner, the poor of the rich. The jealous is yearning to secure by fair or foul means the belongings of the other. On the one hand, wealth is so plentiful that the wealthy is sunk thereunder. On the other hand; poverty is so appalling that the poor are on the verge of death. But the worshippers of wealth feel no responsibility to fulfil their obligations towards the poor as prescribed by the Shariat.

The laws currently in force are of little help in restoring the right of the needy and the poor. On the contrary,

these laws are instrumental in protecting the capitalists and safeguarding their interest.

On the one hand, there are wealthy persons who largely control the country's estate, property, trade and industry. On the other there are poor labourers who put in hard labour with their sweat and blood but the return they get is hardly sufficient to meet their bare necessities of food and clothing. Islamic law, which could have extracted the right of the poor from the wealthy, happens to be suspended in Egypt. As a result, one class is busy in filling its coffers with wealth while the other is harbouring hatred, contempt and jealousy in his bosom. This hatred is growing day by day.

Our laws are based on the principles of profiteering and unfettered economy. That is why the young have little regard and respect for the elders. Similarly, the latter have no love for the young, the strong have no mercy for the weak, the wealthy show no kindness towards the poor. The ruler is despised by the ruled while he himself has nothing but scorn and disdain for the ruled.

Our family life too stands disturbed and disarrayed. The husband keeps away from his wife while the son hates his father. There is a distance among brothers on account of profiteering and selfishness on which our entire social life is based.

Today the whole administration is in disarray. Everything in Egypt is today for sale. There is a price for everything, even for the seat of power, nobility, strength and weakness. Everybody here wants advance payment for the performance of any kind of act, good or bad, right or wrong. As a result, in this land those persons who are unable to pay the price for their decency and nobility in hard cash or who are unwilling to go through this kind of transaction remain in the category of the unfortunate and deprived ones.

## Disgraceful Incidents

Such disgraceful and shameful incidents occur in our country day in and day out that each one of them is sufficient to make us bow our heads in shame and humiliation till doomsday. Before me, there are newspapers of one single day. The pages of these newspapers are full of reports on seven such disgraceful and shameful incidents, i.e., cases regarding military trial, illegal arms smuggling from Western Sahara, smuggling of tea, cocoa, wood, etc; by Rationing Department, defalcation in Education Ministry, export of motors to Israel and persecution of prisoners in jail. This persecution is beyond description and to mere by imagine this is harrowing.

As a matter of fact, each and every of these incidents is a blot on the honour and prestige of the country. But the last of these incidents pertaining to persecution is the blackest on the forehead of our country. It has proved that our rulers have forsaken their faith and religion. They have committed breach of trust, a crime which can never be forgotten or forgiven.

The accused remains an accused until charges against him are proved. Nobody has any right to resort to threat and intimidate or persecute him except to put him under inquiry and investigation. Power in the hands of the rulers is a trust of God and the nation. And the accused is also a trust in their hands. If they try to extract confession of crime through persecution, they would be committing the crime of breach of trust and destroying the guarantee of justice and equity.

The incidents of persecution could have been ignored had their occurrence been rare or merely individual in character. But when these evil acts of persecution take place with the full backing and support of the Governmental

machinery and when the police is encouraged to perpetrate all kinds of atrocities, it becomes a serious, intolerable and unforgivable offence. When this kind of persecution is perpetrated under the very nose of the government, day and night, for weeks, months and years, it means that justice has breathed its last in the country where law has no place, where beasts, not human beings, live and run about in search of their preys. These beastly beings are controlled by their lust. But lo! these very, beasts have been entrusted in our country with the function of adjudgement among human beings.

The incidents have damaged the prestige and honour of our country and tarnished its image in the comity of nations. It is the duty of each and every son of the motherland to stand up against the prevailing situation. He should take no rest until this disgraceful situation comes to an end and every defalcator and criminal is punished for his acts of omission and commission.

The mischief which has overtaken our country is highly destructive. The oppression and repression rampant in the country is likely to destroy the country's unity and solidarity. There exists a very wide gulf between the labour and the factory-owner, between the weak and the strong, between the ruler and the ruled. Contempt, hatred and confrontation have taken the place of mutual cooperation. It is only Islam which can save Egypt from falling into an abyss of destruction. Islam is a guarantee for revival of the self, purification of hearts and reformation. It is Islam which can lead the nation towards peace and security.

## CHAPTER VI

### OBLIGATION OF JEHAD

#### **Subservience not Acceptable to Islam**

Islam does not like Muslims to be subervient and subordinate. A Muslim is required to be gentle, polite, decent and modest in relation to his co-religionist. However, for the enemies of Islam, there is no room for modesty.

- (a) "Humble toward believers Stern toward disbelievers." (5:54)
- (b) "Muhammad is the messenger of Allah And those with him are hard against the disbelievers and merciful among themselves." (48:29)

As a matter of fact, the position of Muslims in this world assigned by the Almighty Allah is not that of humiliation subordination or subservience but that of glory and supremacy.

"When might belongeth to Allah and to His messenger and the believers; but the hypocrites know not." (63:8)

Islam has prescribed it as obligatory on Muslims that they should have firm belief in their position of glory and supremacy, should make it their goal of life to prove the promise of Allah as true and attain through relentless efforts for the Muslim Umma the position which the Almighty

Allah would prefer for them. This position is the position of providing education, guidance and leadership to the world.

"Thus We have appointed you a middle nation, that ye may be witnesses against mankind and that the messenger may be a witness against you." (2:143)

"Ye are best community that hath been raised up for mankind. Ye enjoin right conduct and forbid indecency; and ye believe in Allah." (3:110)

### Hijrat—Migration

In accordance with this, a Muslim is called upon to migrate from the land where he neither enjoys the position of glory and supremacy nor is there any possibility prospects for this, to a place where there are prospects for his glory. For such a migrant, Allah has promised refuge rehabilitation and resettlement. If in the process, his life come to end, he will be given a big reward in the Hereafter:

"Whoso migrateth for the cause of Allah will find refuge and abundance in the earth, and who forsaketh his home, a fugitive unto Allah and his messenger, and death overtaketh him, his reward is then incumbent on Allah." (4:100)

If a Muslim in spite of having the means to migrate submits himself to a state of humiliation and weakness and feels contented, he is a great transgressor. His profession of Islam will not be of any help to him as he has himself put on the necklace shackles of humiliation and disgrace in his own neck. Islam does not permit him to remain entrenched in humiliation and disgrace for ever. Islam has forbidden Muslims as far as possible to live in non-Muslim society because it is a symbol of weakness of Muslims. In a non-Muslim society, Muslims have to remain subservient and

subordinate to non-Muslims whereas a Muslim cannot be subservient to anyone other than Allah. In the words of Holy Quran:

"Lo! as for those whom the angels take (in death) while they wrong themselves, (the angels) will ask: In what were ye engaged. They will say. We were oppressed in the land. (The angels) will say: Was not Allah's earth spacious that ye could have migrated therein? As for such their habitation will be hell, an evil journey's end.

Except the feeble among men and the women and the children, who are unable to devise a plan and are not shown a way.

As for such, it may be that Allah will pardon them. Allah is ever Clement, Forgiving." (4:97-99)

The Holy Prophet (Peace be upon him) has said:

- (a) "I am not responsible for those Muslims who stay in a polytheist society. In reply to the question as to why, he said" their kitchen/stores cannot be face to face" i.e. their social life and mode of living are totally different from each other.
- (b) "Whosoever resides and maintains communication with a polytheist, he is like him: Migration will not end until Tauba comes to an end; And Tauba will not come to an end till sun rises from the West."

### **Islam Does Not Compromise with Transgression**

Islam does not allow its votaries to remain silent in the face of tyranny and transgression, and submit before evil.

Islam does not teach us to bend our knees before the nations of Europe and ungrudgingly bear the tyrannies perpetrated by them on Islamic countries. It is imperative to reply to might with might, to meet sword with sword till we get back our usurped rights and defeat the enemies from realising their objectives and we re-attain complete supremacy in all Muslim countries.

In the words of the Almighty Allah:

- (i) "The forbidden month for the forbidden month and forbidden things in retaliation. And one who attacketh you, attack him in like manner as he attacked you." (2:194)
- (ii) "The guerdon of an ill-deed is an ill the like thereof." (42:40)

### Jehad An Obligation

The Almighty Allah has ordained Jehad as obligatory on Muslims. The term Jehad includes all kinds of striving and sacrifice financial, material and of personal life. The Holy Quran has stressed Jehad time and again. For example, it says:

- (a) "Warfare is ordained for you, though it is hateful unto you: But it may happen that ye hate a thing which is good for you, and it may that ye love a thing which is bad for you." (2:216)
- (b) "Fight in the way of Allah against those who fight against you." (2:190)
- "And fight them until persecution is no more, and religion is for Allah." (2:193)

- (c) "And slay them wherever ye find them, and drive them out of the places whence they drove you out, for persecution is worse than slaughter." (2:191)
- (d) "Let those fight in the way of Allah who sell the life of this world for the other. (Whoso fighteth in the way of Allah, be he slain or be he victorious, on him We shall bestow a vast reward)." (4:74)
- (e) "How should ye not fight for the cause of Allah and of the feeble among men and of the women and the children?" (3:75)
- (f) "Those who believe do battle for the cause of Allah; and those who disbelieve do battle for the cause of idols. So fight the minions of the devil. Lo! the devil's strategy is ever weak." (4:76)
- (g) "Go forth light armed and heavy armed and strive with your wealth and your lives in the way of Allah!" (9:41)
- (h) "And wage war on all the idolators as they are waging war on all of you." (9:36)
- (i) "Fight against such of those who have been given the scripture as believe not in Allah not the Last Day and forbid not that which Allah hath forbidden by His messenger." (9:29)
- (j) "O ye who believe! Shall I show you a commerce that will save you from a painful doom? Ye should believe in Allah and His messenger and should strive for the cause of Allah with your wealth and your lives. That is better for you if ye did but know." (60:9-10)

There is a difference of opinion among jurists about the conditions where Jehad is altogether obligatory and where it is a voluntary. However, there is unanimity that Jehad is altogether obligatory in the following cases:

- (i) When the army of Islam is face to face with the forces of unbelievers in a battle field, it is obligatory to fight till the last breath and it is forbidden to turn back without the permission of the Commander:
  - (a) "O ye who believe! When ye meet an army hold firm and think of Allah much." (8:45)
  - (b) "O ye who believe! When ye meet those who disbelieve in battle, turn not your backs to them." (8:15)
- (ii) When the leader of Muslims calls up every able-bodied person for fighting, Jehad becomes obligatory:
  - (a) "O ye who believe! What aileth you that when it is said unto you: Go forth in the way of Allah, ye are bowed down to the ground with heaviness." (9:38)
  - (b) In the words of the Holy Prophet (Peace be upon him), "come out, when you are called upon to come out."
- (iii) When unbelievers make intrusion into any Islamic country, Jehad becomes compulsory for all its inhabitants. As ordained by the Holy Quran, "Fight until the end of mischief". There can't be a greater mischief than the subjugation of Muslim countries by unbelievers. According to some jurists, Jehad is obligatory

even in cases when unbelievers occupy even uninhabited and desolate tract of Muslim lands.

According to other jurists, Jehad becomes obligatory on all Muslims including the old, the women and the sick in case of intrusion into the country by unbelievers though, otherwise, women are generally exempted from Jehad. As stated by a tradition, the Holy Prophet (Peace be upon him) in reply to a query from Hazrat Aisha that whether jihad was obligatory on womenfolk, said that for women folk, the Jehad which involves no killing is Haj and Umra etc.

### **Ever-Preparedness for Jehad**

It is incumbent on Muslims not only to respond to the call of war but also not to retreat. They have also been ordered to be ever ready for Jehad. They should be fully armed. They should build up their military power to a degree which may over-awe the enemy and prevent it from harbouring any idea of attacking Muslims.

- (a) "O ye who believe! Take your precaution then advance the proven ones or advance altogether." (4:71)
- (b) "Make ready for them all thou canst of (armed) force and of horses tethered, that thereby ye may dismay the enemy of Allah and your enemy, and others beside them whom ye know not Allah knoweth these. Whatsoever ye spend in the way of Allah it will be repaid to you in full and ye will not be wronged." (8:60)

From this point of view it is essential for Muslims to acquire every material and adopt every step which could increase their war power and expertise. It includes all kinds of warfare training, use of arrow, lathi, sword, arms and

ammunition, driving of military vehicle, tanks, piloting of planes. Wrestling, swimming and horse-riding also come in this catagory. It is, therefore, all the more necessary that Musiims should themselves undertake production of armaments. The Holy Prophet (Peace be upon him) has said: "Bear in mind that power means dexterity in archery and precise shooting. To Allah, a strong Muslim is more lovable than a weak Muslim."

"Verily, the Almighty Allah will let three persons enter into paradise on account of one arrow—the maker of that arrow with good intention, the user of that arrow and the giver of that arrow for use."

"Learn marksmanship and horse-riding. I like marksmanship more than horse-riding. One who gives up marksmanship after learning it he does not belong to us."

"You will conquer many countries and Allah will be sufficient for you. So don't give up archery. It is established from the life of the Holy Prophet (Peace be upon him) that he participated in sports and horse racing. He not only held these competition in his presence but also encouraged all such activities. Once he participated in a competition of archery from the side of one party. The other party made a humble submission that they could not shoot arrows on a group which included him. He replied: "Shoot arrows without any hesitation. I am with all of you."

From his practical life, wrestling and archery are also established.

### Reward of Jihad

According to Islam, a vast reward has been promised for Jihad in the way of Allah. The Holy Prophet (Peace be upon him) has characterised as the zenith of Islam. Some of the

verses of the Holy Quran about Jehad are as follows:

- (a) "Lo! Those who believe, and other who emigrate (to escape the persecution) and strive in the way of Allah, those have hope of Allah's mercy." (2: 218)
- (b) "Those who believe and have left their homes and striven with their wealth and their lives in Allah's way are much greater worth in Allah's sight. These are they who are triumphant." (9:20)

The Holy Prophet (Peace be upon him) has said:

"Should I tell you about the best of all men? The companions said: "Why not"? The Prophet of Allah said.. "The man who continues to hold the reins of the horse until he dies or is got killed. One day's surveillance in the way of Allah is better than one thousand days spent otherwise."

### Treaty of 1936

Egypt has been struggling for its independence since 1919. After begging by Egypt for sixteen years, the Britishers "very kindly" agreed in 1936 to sign a treaty called the "Treaty of Friendship and Independence." This treaty, as a matter of fact, represented the worst manifestation of simple mindedness and exploitation. According to this agreement; we actually recognised that the British were the protectors and custodians of our freedom and independence. As proved by experience later on, it was no more than a mirage far from what its name indicated.

The British blatantly violated one after another all those terms of agreement which tended to be somewhat favourable to us. For instance, one of the conditions stipulated that the British would not interfere in our internal

affairs. . A flagrant example of the contravention of this condition is that in 1948, the British demanded from the Govt. of Egypt to ban Ikhwan-ul-Muslimeen (the Muslim Brotherhood Organisation) According to another condition, parties to the agreement were bound to help each other in case of war. We extended to the British all kinds of assistance and help during the Second World War. But when there broke out a war against the Jews, the British even refused to supply us arms on cash payment in spite of this agreement.

In 1948, the passions of Egyptians rose high against the British and the British influence in Egypt diminished immensely. It was on the verge of its end. In creating this situation, the Muslim Brotherhood had played the biggest role. The British, therefore, again started inciting the Egyptian Govt. against it and using the government as their instrument against it. As a result, the government, instead of using its force against the enemy, made its own fellow-men and co-religionists the target of its persecution. They were imprisoned in jails and the wave of repression and oppression let loose mercilessly on their lives, property and honour is beyond description and the mere imagination of it is harrowing.

#### Transaction with Enemies of Islam Forbidden

The conduct of a Muslim should always be in conformity with the cause of Islam and Muslims. It should never be aimed at winning the goodwill of disbelievers. According to Islam, the friend and well-wisher of a Muslim cannot but be a Muslim and that of a disbeliever, a disbeliever. The Muslims all over the world constitute a nation and disbelievers of the entire world belong to a separate nation. In the words of Holy Quran:

- (a) "And lo! This your religion is our religion." (23:52)

- (b) "The believers are naught else than brothers."  
(49:10)

'Islam has disallowed friendship with non-Muslims because it creates disunity, disarray and disorder in the ranks of Muslims. Islam permits good behaviour and cordial relations with only those Non-Muslims who have neither ever fought against Muslims nor perpetrated any wrong on them. It is forbidden to have any friendship, cordial relations or love with those non-Muslims who have waged war against Muslims or repressed and persecuted them. The Holy Qur'an has elucidated this in the following verses:

- (1) "Let not the believers take disbelievers for their friends in preference to believers. Whoso doeth that, hath no connection with Allah unless (it be) that ye but guard yourselves against them, taking (as it were) security." (2:28)
- (2) "And the believers, men and women, are protecting friends one of another." (9:71)
- (3) "And those who disbelieve are protecting friends one of another." (8:73)
- (4) "O ye who believe! Take not the Jews and Christians for friends. They are friends one to another. He among you who taketh them for friends is (one) of them." (5:51)
- (5) "Yours friend can be only Allah; and His messenger." (5:55)
- (6) "Those who choose disbelievers for their friends instead of believers! Do they look for power at their hands? Lo! all power appertaineth to Allah". (4:139)

- (7) "O ye who believe! Choose not My enemy and your enemy for friends. Do ye give them friendship when they disbelieve in that truth which hath come unto you, driving out the messenger, and you because ye believe in Allah, your Lord?"  
(60:1)
- (8) "O ye who believe! Take not for intimates others than your own folk." (3:118)
- (9) "Thou will not find folk who believe in Allah and the Last Day loving those who oppose Allah and His messenger, even though they be their fathers or their sons or their brethren or their clan." (58:22)
- (10) "O ye who believe ! Choose not your fathers and your brethren for friends if they take pleasure in disbelief rather than faith." (9:23)
- (11) "Thou seest many of them making friends with those who disbelieve. Surely ill for them is that which they themselves send on before them; that Allah will be wroth with them and in the doom they will abide. If they believed in Allah and the Prophet and that which is revealed unto him, they would not choose them for their friends. But many of them are of evil conduct." (5:80-81)

In spite of these clear and unambiguous injunctions of Quran and definite order of Islam, our leaders and rulers implore friendship with the English, the French, the Americans, the Russians and other enemies of Islam. They ever do their best to promote and further cement this friendship even though all these nations are opposed to Muslims and have occupied Muslim countries by force. They wage war against Muslims and perpetrate on them all sorts of persecution and repression. Our rulers consider it their honour to eulogise these nations even though their hands are stained with the blood of Muslims.

## CHAPTER VII

### CONFLICT BETWEEN ISLAM AND IMPERIALISM

#### **Obstacles in The Way of Islam**

In previous chapters, we have seen that our collective life is full of shortcomings, conflicts, disunity and disarray. A multitude of difficulties and hardships had overtaken our society miserably. Every Muslim knows very well that Islam is the only panacea for all of his ills and troubles. Muslims not only recognise this reality but also desire and demand that their collective life should be built up on the solid foundation of Islamic tenets and injunctions. But, strangely enough, in spite of this awareness, recognition and yearning, we have been unable to realise our objectives. There is something which continues to prove a great obstacle between Islam and Muslims. Had Muslims been in minority in Islamic countries, it could have been contended that the non-Muslims' majority constituted an impediment between the seeker and his objectives. But the facts are to the contrary. Muslims in most of their countries constitute a preponderant majority. In many of these countries, the official religion of the states is Islam. Moreover, these countries also claim to be democratic. In the constitutions of these countries, there are clear provisions stipulating that the Governments and laws of these countries would be framed and constituted in accordance with the will of the majority of the people. Then what on earth is there to impede the way of Islam? If you ponder over the matter, you will realise that there are only two major impediments.

(i) The Western Imperialism.

(ii) The (so-called) Muslim Governments.

### **Imperialism**

Imperialism or colonialism is the enemy No. 1 of Islam. It is the imperialism which first of all effected the abrogation of Islamic laws and paved the way for their substitution by non-Islamic laws. Wherever Islamic society comes into being by virtue of Islamic laws, Western imperialism cannot entrench itself in that land and it has *ipso facto* to take to its heels from there.

Islam wants to see supremacy of the word of God among Muslims and can under no conditions put up with the evils of imperialism. According to Islam, Muslim are forbidden from submission in any way before infidelity. It has taught Muslims to be ever ready and prepared to fight Imperialism, lay down their lives for this noble cause and take no rest till Islam achieves supremacy and infidelity is overpowered and defeated.

Islam has forbidden friendship and cordiality with imperialism and stipulated hate and contempt against it. You can very well understand as to how imperialism can take rest or feel easy or blossom in Islamic environment and as to how Islam can remain in a land where imperialism gets itself entrenched.

According to Islam, Muslims all over the world constitute one nation (Ummah). Islam calls upon Muslims to stand up against their enemies as one man. The enemies of Islam can subjugate Muslim countries one by one but they cannot face the whole Islamic world if united. Therefore, the enemies of Islam want that in place of Islamic laws, separate national, secular and un-Islamic laws should be

enforced in each Muslim country. They desire that instead of Islamic nationalism, international in character, separate nationalism based on nation-states and race should emerge in Muslim countries. As long as there remains imperialism in the world, the conflict between Islam and imperialism will continue. As long as Muslims possess strength, they will continue to fight against their enemy. If they lose their strength, they will continue their struggle to regain and re-equip themselves with power. They can well enter into agreements or make compromises in case of emergency according to exigency of the situation. But, as soon as they apprehend any trouble or damage or any default on the part of imperialists, they will throw these agreements into their faces and wage an open war against them.

Islam prohibits hoarding, forcible exploitation, unlawful profiteering and all forms of usury, the real solid pillars on which the entire edifice of imperialism is based. If these pillars are removed, the imperialistic edifice will tumble down within no time. That is why whenever any imperialistic power gets sway or upper hand over any Muslim country, economically or politically, it tries first of all to let the Islamic tenets and laws be abrogated and suspended. Imperialism and Islam are not compatible. Wherever Imperialism enters through one gate, Islam starts its exit through the other.

### **Imperialistic Machinations**

Imperialism employs strange and naive machinations to achieve its sinister objective of creating a wedge between Islam and Muslims. Posing as a well-wisher of Muslims, it counsels Muslims to give up the "outdated" laws of Islam and instead adopt modern laws of the West, maintaining that these Western laws ensure strength, promote culture and civilisation and accelerate progress. This contention is altogether wrong because, as a matter of fact, the Western laws

form the root cause of all ills—weakness, decline, decay, clash, conflict and extinction.

Imperialist powers are actually scared and remain under constant fear of the Islamic spirit of Jehad and reinvigoration of Muslims' strength. Therefore, they do their best not to let this spirit be re-kindled and not to let Muslim re-equip themselves. Let us not forget the historic words of a former British Prime Minister, Mr. Gladstone, in the House of Commons: "The British Empire cannot entrench itself in any Muslim country as long as there remains their Holy Book, Quran".

Imperialist powers utilize the services of their missionaries and priests for this purpose because they know very well that it is not easy for them to deviate Muslims from Islam directly or openly turn them into infidels. Therefore, they are now trying indirectly to bring Muslims down from their elevated and exalted position gradually. The Western preachers tell us that there is no correlation between religion and intellect. Religion, according to them, has always impeded the evolution of knowledge and science. They maintain that the history of the Christian church bears witness to the fact that until the spheres of the two were not segregated, the European nations could not march on the road to progress. They impress upon Muslims that the real cause of their downfall was their extra ordinary attachment to religion and their fervour to seek guidance from religion in every matter. According to them, Muslims cannot make any progress until and unless polities is separated from religion and secular Governments are established in Muslim countries on the lines of European countries. This magic of Western thinkers and preachers has to a large extent worked. Many of our writers and politicians have started harping on the same tune, polluted the minds of unwary Muslims and paved the ground for imperialists and their missionaries. Many so called Muslims from amongst us whose minds, pens and tongues have been

sold at insignificant price are being employed against Islam for preaching to the Muslims that they should displace and divorce religion from all worldly affairs and, like the Westerners, disassociate religion completely from state. In this way, the imperialist powers do strike a wedge between Islam and its votaries to strengthen their grip.

As a result of this phenomenon, religious education is given no importance in Government schools. The curriculae of secular education is borrowed A to Z from the West. The students coming out of these institutions with degrees are of the firm view that religion has no right to interfere in the affairs of politics and government.

According to their view, religion is concerned only with relations between the individual and his Lord. They think and believe that no nation can march on the road to progress without forsaking religious tenets and injunctions. Although these people don't know even the ABC of religion but they have the temerity to pass judgements on religion. What a pity that the reins of Governments in Muslim countries and the authority of education and training rests in the hands of these very people!

In such atmosphere of training and education, only a few people can come out of these institutions having the capability to take a critical view of their environment and understand the machinations of imperialists and their adroit methods for the accomplishment of their sordid task by using people as their agents, instruments and hirelings.

### Separation of Religion and Politics

It will be nothing but their simple-mindedness and ignorance if Muslims consider that the secret of Europe's progress lay in the separation of religion from politics. As a matter of fact, Christianity as known to Europe, did not

have any laws or regulations governing Government, politics and other collective affairs. As such the question of separation of religion from politics or vice versa does not arise. Christianity rose to heights of glory when the Roman Empire accepted its patronage and assumed the responsibility of its propagation after declaring it as its official religion. At that time, the Roman Empire had its own complete code of laws which is till today known as "Roman law". Before and after Christianity was declared official religion, the law in force throughout the empire was this very Roman law. Even today when most of the states in Europe prefer to be called secular states, their laws are based on the Roman law.

In this perspective, it is crystal clear that Christianity encompassed neither any legal code for the guidance of the state nor did it have any occasion for interfering with state laws. However, after Christianity was declared state religion, some of its moral codes did reflect on the state legislation. But later on, a very regrettable situation arose, i.e., the church entered into an unholy alliance and sinister conspiracy with state authorities. The church gods occupied the seat of power. Since they had no religious code, they framed up certain laws and principles at random on the basis of their self-interest and started enforcing them on the people in the name of God and religion so as to enslave the people for satisfying their own power lust. For some time, the situation remained so. But after a while, the rivals of these religious monopolists came into the field of politics and intellectual sphere. A fierce and bloody tug of war between the two rival groups for capturing power ensued. At last, the church was given a humiliating defeat and its opponents captured power and got themselves seated in power.

Truly speaking, it was neither a war between religion and atheism nor was the cause of war in any way connected

with the question of separation of religion from politics. It was purely a war for power, which was being fought on the basis of sheer self-interest. It had no relation whatsoever with religion. On the one side, there were the monopolists of the church who were indulging in deceit in the name of religion. On the other were the common politicians who were trying to capture power in the name of the people and democracy. This was not a war for principles. On the contrary, it was a war of individuals and personalities which was being fought without scruples.

The relation of the state and its laws *vis-a-vis* religion which existed before, continues, more or less, in the same way. If one studies the European laws of the last few centuries, he would find that they have not undergone any basic or vital change except that earlier the church was sovereign and now the "People" were sovereign. Otherwise, the position is the same. Previously, few individuals used to make laws on the basis of their own precepts and thinking. Likewise, presently also only a few persons enact laws in accordance with their discretion and viewpoint. The basis of these laws is still the same, the Roman law, which has undergone only slight changes to meet the inevitable demands of the changing times and situation.

In the historical perspective, the conflict between the church and its opponents brought about the following changes: Firstly, the political ascendancy to power of one particular group did no longer enjoy the support of religion. Thus, the possibility of this particular group remaining in power for ever in the name of religion came to an end. Secondly there now emerged freedom of thought and freedom of belief. Previously, the church used to get a certain belief accepted by people forcibly and those who did not accept it were made the target of all kinds of persecution and torture.

Both of these changes by themselves are very useful. But this does not mean that now there remained no relation between religion and the state or that this relation should now be cut off. Likewise, making the religion as the basis of legislation should not be taken to mean that certain particular group is to be saddled in power and authority or that the people are to be forcibly compelled to become votaries of that particular creed or belief. At least there is no room in Islam for such a situation to arise. There is no religious oligarchy in Islam on the basis of heritage. Each and every Muslim can become a religious scholar and a jurist. Islam also demands of a Muslim to become a religious luminary rather than uninitiated and ignorant. Similarly, Islamic laws and injunctions too do not invest Uléma and Fuqha (Jurists) with any special rights which other people have been deprived of. Likewise, Islam provides and guarantees complete freedom of thought and belief. It has forbidden compulsion or force to be employed for thrusting any creed or belief upon the people. The Holy Quran has stated in unequivocal terms: "No compulsion in the matter of religion"

The Holy Prophet (Peace be upon him) has said.

"We have been ordered to leave the people free to follow their own religion".

### **Islamic Countries and Europe**

The condition of Muslim countries is totally different from European countries. Our religion is not similar to Christianity. Our religion prescribes clear-cut orders and regulations for every matter and aspect of human life including polities and Government. As such, there is no room for any fear that in case the religion was made the basis for laws the Government or Uléma would present their self-made laws as the injunctions of religion. There is no denying the fact that Governments based on Islamic laws

which ruled for centuries did make certain deviations from Islamic principles. But these deviations have always been treated as deviations which could never acquire religious sanctity. Then, it is also a fact that the Islamic injunctions and guidance about politics and Government form an important and inseparable part of Islam and its teachings. If these are given up, forsaken and substituted by non-Islamic laws, it would amount to flagrant deviation from, and revolt against, religion. When the Christians had declared separation of religion from politics, they had no need to affect any change in their laws because Christianity had none of Shariat laws and the Roman law was supreme. At any rate, Islam can neither be considered at par with Christianity in the respect nor is there any similarity between the history of Muslims and that of Europe.

### **Religion Not Cause of Decline**

The imperialists and their votaries propagate that the cause of the decline and fall of Muslims was their adherence to their religions while most of the Western countries themselves follow their own religion. The Governments of Europe and America and their people spend crores of pounds on Christian missionaries for propagation of Christianity. If religion was really the cause of decline, why don't these countries forsake their religion and why don't they give up propagation of Christianity to others? Irrespective of the fact whether other religions were the cause of decline or not, adherence to Islam is a means for uplifting humanity to the pinnacle of progress and glory.

Islam enjoins on Muslims to devise ways and means for strengthening themselves for commanding respect, supremacy and leadership. It has ordained that a Muslim is the champion of righteousness. He should, therefore, cooperate with other in the accomplishment of all righteous deeds. For this purpose, it is necessary for a Muslim to organise the entire

humanity on the basis of equality, brotherhood and justice and ensure removal of fear, ignorance wickedness and poverty. It is the solemn duty of all Muslims, to bring oppression and repression and hoarding and exploitation to an end. If Islam is enforced in its comprehensive form, then all the troubles and difficulties of the entire human race would come to an end and all worldly difficulties melt away.

### Conflict Between Islam & Imperialism

Islam and imperialism are by nature fatal enemies of each other. Imperialism is so much afraid of Islam that the mere imagination of Islamic revival makes it restless, sleepless and shiver in its shoes. It never gets worried at the enormous increase of the number of political parties secular in character. But it cannot countenance the emergence of any Islamic party. The establishment of even a small Islamic party torments it like fire. It knows that common political parties seek realisation of material and secular objectives and it was not difficult to satisfy them or win them over. But a true Muslim seeks the pleasure of the Almighty Lord and pursues the path of martyrdom in the way of Allah. It is not easy to seduce such a Muslim with worldly offers or to turn him away from the pursuit of his lofty ideal.

Whenever the passion for Jehad, war and martyrdom in Muslim countries re-awakens the Western powers conspire with Muslim rulers and prevail upon them to perpetrate atrocities on the pioneers of Islam and stop them from marching on the road to Islam and thus prevent them from advancing towards Islam. But the true Muslims refuse to bow or surrender and thereby have to face two-pronged attacks from their own brethren in faith as well as from the enemies of Islam. To meet this challenge, they pray to Allah and seek his blessings for perseverance and courage. This conflict opens the eyes of common, unwary Muslims. They see with their own eyes the real enemy of Islam and its followers.

Ultimately their sympathy and active cooperation go to those who fight and die in the way of Allah.

### Last Battle

The conflict between Islam and imperialism has now entered into a new and serious phase. Beside the old imperialism of Europe and America, a neo-imperialism has come into being. This is Russian imperialism, whose dark and dreadful shadows are spreading over Islamic countries. The old imperialism is fully aware that only Islam can prove a bulwark against this neo-imperialism. The old colonialism is now surrounded by two "evils". If it leaves the field open for Russia, it knows fully well that the Communist giant will devour everything and thus the old colonialism and its off-shoots together with all that it stands for will be annihilated. If the old imperialism does not prevent it from marching ahead, Islam will eliminate the imprints of the old colonialism from all Muslim countries at all costs. So the old colonialism now contrives to gather the Muslims as mercenaries under its banner and raising the bogey of Russian atheism as against its polytheism uses Muslims against Russia in its favour. But it is a hallucination which, God willing, will never come true.

To Islam, the old and neo-imperialism belong to the same category. It looks upon both of them with disdain, contempt and hate because both bear malice towards Islam. Their entire power-politics revolves round their objective to overpower Muslim countries and assume supremacy by pushing out the other imperial power from their entrenched position in Muslim lands. Muslims will gain little if they fight in support of one enemy against the other. It will be beneficial for Islam and Muslims if they remain neutral and wait and see. They should take up arms only for their own defence and security. Through this conflict between the Anglo-American and the Soviet bloc, God has provided an opportunity to

Muslims to get rid of both. They are quarrelling with each other just to acquire control of the Muslim countries and oust the other from these countries. This conflict is really between two thieves fighting each other for committing burglary into our homes. If we want to pave the way for theft and burglary in our homes, we could help one thief against the other. But if we want to protect our homes, then we should be watchful and wait for the result of this quarrel. We should fight against that party which advances towards us.

A true Muslim should never let himself be entrapped in the cobwebs of imperialist powers. And as long as they do not discontinue their atrocities and conspiracies in Muslim countries, we should repose no trust in them.

Islam and imperialism both are today face to face in the battle-field. The hour of the last battle is at hand. Muslims all over the world should get prepared for the appointed hour. God willing, they will come out with flying colours and the capitalists as well as Bolsheviks will shortly realise that victory belongs to Muslims.

### Attitude of Muslim Governments

We have already stated in detail as to how Governments in Muslim countries were arrayed against Islam and how they were perpetrating atrocities on those engaged in Jehad in the way of Islam. We have seen how these Governments were declaring the forbidden things as permissible and prohibiting the permissible as forbidden, suspending Islamic laws and trampling down the sanctions of Allah.

We have stated that all the energies of these Governments were being mobilised for supporting colonialists and crushing Muslims at large. In this connection, we have given numerous instances exposing the claim of these Governments

of being pro-Islam. It has been illustrated that all their endeavours were directed against the interest of Islam. We need not recount those arguments and instances. But it will be worthwhile to find out the root cause of this conduct of Muslim Governments.

There are two main causes of this behaviour. Firstly, ignorance of Islamic tenets, and, secondly, fear of losing power. It is rather very painful and pinching that the reins of power in Muslim countries are in the hands of those who do not know the ABC of Islam. But these very people happen to drive the carriage of our nation. These are the persons who represent us and Islam at international forums and functions. Many of these rulers are those whose fore-fathers have been great scholars and true followers of Islam. Even today, these people do follow Islam in their daily life. But their Islam is limited to certain practices pertaining to worship. Their knowledge of Islam is not more than that of a common Muslim. To their minds, Islam merely means prayers, fasting and Haj. They are ignorant of the fact that Islam encompasses all matters of this world and hereafter. It guides us at every step from the mosque to the Government House. They don't know that the foremost principle of Islam is that a Muslim should believe in all the Teachings of Islam revealed by Allah.

Belief does not comprise words or lip service alone. It demands practice, implementation by deeds. The Holy Prophet (Peace be upon him) has said:

“Faith is based not on one's yearnings but rooted in his heart and testified by his deeds. Some people left this mortal world without earning any righteousness, saying that they had good expectations from Allah. But they lied. Had they entertained any good expectations from Allah they would have acted righteously”.

Everybody will be accountable for his own deeds. If he has done good, it would prove beneficial for him and if has committed evils, it would be injurious for him. In the words of the Holy Quran:

- (1) "And say (unto them): Act ! Allah will behold your actions and (so will) His messenger." (9:105)
- (2) "Them, by thy Lord, We shall question, every one, of what they used to do." (15:92 -93)
- (3) "This is the Garden which ye are made to inherit because of what ye used to do." (43:72)

### **Ignorance of Our Rulers**

Our rulers don't know that Allah has made it obligatory on us to observe Islamic laws. We are not permitted to follow any other law. They don't realise that the foundation of our government should be based on God-endowed injunctions. One who does not rule in accordance with the tenets of Islam revealed by Allah, he commits a sin and an act of disbelief. It is incumbent on every Muslim that he should direct all his obedience and faith towards Allah and Allah alone. No distinction can be made in respect of injunctions of Allah. In the matter of their observance, we are not permitted to choose one and leave others as the Holy Quran says.

- (1) "Yet ye it is who slay each other and drive out a party of your people from their homes, supporting one another against them by sin and transgression — and if they came to you as captives ye would ransom them, whereas their expulsion was itself unlawful for you — Believe in part of the Scripture and disbelieve ye in part thereof? And what is the reward of those who do so save ignominy in the

life of the world and on the Day of Resurrection they will be consigned to the most grievous doom.” (2:85)

- (2) “but beware of them lest they seduce them from some part of that which Allah hath revealed unto thee.” (5:49)

These rulers don't realise that the foremost duty of the Government is to establish faith—which includes everything, prayers, politics, economy and morality. One of the essential duties and functions of the Government is to establish Islam, arrange its propagation and observe (not to exceed) the limits prescribed by Allah. They don't know that by enforcing non-Islamic laws in their countries, they are innovating another religion (Deen) which is not permissible by Allah.

By doing so, they are compelling the people to obey wickedness and thus the Devil is leading them astray. They are like those who have been portrayed by the Holy Quran in these words:

- (1) “And when they appeal unto Allah and His messenger to judge between them, lo! a faction of them are averse.” (24:48)
- (2) “And when it is said unto them. Come unto that which Allah hath revealed and unto the messenger, thou seest the hypocrites turn from thee with aversion. How would it be if a misfortune smote them because of that which their own hands have sent before (them) ? Then would they come unto thee, swearing by Allah that they were seeking naught but harmony and kindness.. Those are they, the secrets of whose hearts Allah knoweth. So oppose them and admonish them, and address them in plain terms about their souls.” (4:61—63)

These rulers know well that modern laws are the inventions of human caprices and rulers' lust. But do they not know that Allah has forbidden the adherence and seeking adherence to such caprices and lusts. They are under the misconception that the western nations have reached the pinnacle of glory by virtue of their laws. This misconception is devoid of reality. Is it not a fact that these very laws did exist and were in force when Muslims had thrown out the Europeans from their homes, when the crusaders were driven out and when Muslims had held supremacy all over Europe.

The Muslims don't care having difference of opinion, even with the majority of the world or their opposition. They firmly believe that adherence to majority does not constitute righteousness or truth. To follow Allah and His apostle is the real righteousness and uprightness.

(1) "Most of them follow naught but conjecture." (10:37)

(2) "If thou obeyedst most of those on earth they would mislead thee far from Allah's way."

(6:117)

A true Muslim is bound to obey the injunction fo the Almighty. He cannot deviate from this path. He is not a servant of lust or lustre. He has been decreed not to fear people but Allah. How can our rulers expect that Muslims will obey them in defiance of Allah.. They are forbidden to obey infidelity and wickedness. It is obligatory on them to respond to the call of Allah and His apostle:

(i) "O ye who believe; obey Allah and the messenger when He calleth you to that which quickeneth you." (8:24)

- (ii) The saying of (all/true) believers when they appeal unto Allah and His messenger to judge between them is only that they say. We hear and we obey." (24:51)

Look! These are our rulers and these are the injunctions of Islam. If they are ignorant or oblivious of these injunctions, this ignorance will spell disaster for themselves as well as the Muslims at large. If their ignorance was assumed or if they refused to accept these injunctions, in that case they committed breach of covenant with Allah. By doing so, they severed what the Almighty has ordered them to join and cement. They have sowed the seeds of wickedness on Allah's earth. They have declined to be servants of God and accomplish their duties as His servants and worshippers. They have tried to trumpet their lordship and greatness. I cannot but bring to their notice the following verses of the Holy Quran:

- (i) "And those who break the covenant of Allah after ratifying it, and sever that which Allah hath commanded should be joined, and make mischief in the earth: theirs is the curse and theirs the ill abode." (13:25)
- (ii) "Whoso scorneth His service and is proud, all such will He assemble unto Him; Then, as for those who believed and did good works, unto them will He pay their wages in full, adding unto them His bounty; and as for those who were scornful and proud, them will He punish with a painful doom. And they will not find for them, against Allah, any protecting friend or helper." (4:172—174)

### Lust for Power

It is rather strange that the rulers and Governments

of Muslim countries are under the spell of power-lust. They make all-out and concerted efforts to perpetuate their power and leave no stone unturned to retain it. They even don't hesitate to sacrifice the honour of their own, of their homeland and of fellow countrymen at the altar of power. For winning over the goodwill of the enemies of Allah and His faith, they don't even hesitate to sacrifice their own religion. They cultivate friendship in all sincerity and right earnestness with the enemies of Islam just to protect their seat of power and strengthen themselves in the saddle. They bear obedience to the British, the Russians, the French and the Americans while they play with the life, property and honour of innocent Muslim men and women, notwithstanding the injunctions of the Almighty:

- (i) "O ye who believe! If ye obey a party of those who have received the Scripture, they will make you disbelievers after your belief." (3:100)
- (ii) "O ye who believe! If you obey those who disbelieve, they will make you turn back on your heels, and ye turn back as losers." (3:149)

Don't our rulers know that many of the people who have received scripture pose themselves as the well-wishers of Muslims just to turn them back towards disbelief? What a pity that these rulers do not encourage or patronise those devoted to the service of Islam because they don't want to paint the Muslim states in the colour of Allah but in that of the godless-Secular ones. They bend all their energies to save themselves from the allegation that they were partial and tilted in favour of Islam, or that they were fanatic Muslims. On account of this fear they go on undermining the roots of Islam which, as a matter of fact, constituted the fountains-head of their own and their nation's strength and honour. Had they taken the trouble of pondering over the matter, they would have realised that the distinctive

characteristic of a true Muslim was love with Islam and malice towards disbelief. It is incumbent on a Muslim that he himself should abide by Islam and turn all his environment in Islamic one.

What a pity that the lust of power has brought and inflicted disgrace upon these who are hungry of power. Their ignorance of Islam has proved a great impediment in the way of Islam. Muslims all over the world are confronted with the same situation that their rulers and governments happen to be power-hungry. Their objective is not the establishment of Islamic order but to perpetuate their own power.

The whole Islamic world is in the shackles of imperialists. Imperialism holds the sway in all spheres. It is busy in looting our land, snatching our flesh and squeezing our blood. Our beliefs and creed are being maligned, our honour and respect being spoiled and we are being incited against our religion.

O Muslims! The laws in force in your countries bear no relation whatsoever with your religion, culture or civilisation. This is an open humiliation of your consciousness and belief. This is causing mischief and disunity among you. These are the instruments of imperialism and are being employed against you. These laws have legalised exploitation and provided justification for the heretical Governments.

O Muslims! Your own governments are rendering the forbidden into permissible and turning permissible into forbidden. These very Governments are suspending the Islamic laws and perpetrating atrocities upon the servants of Islam and entering into conspiracies with the Western Powers.

O Muslims! This happens to be your present lot and collective social life which is not acceptable to you. But this social order is being forced upon you by your own governments with the help of Imperialist powers.

Islam demands that this evil order should be obliterated and Islamic order be established in its place. As long as the obstacles created by imperialists and your Governments are not removed, Islam cannot get ascendancy. Let us sacrifice our lives and properties for the supremacy of Islam and stand up as one man against our opponents. Let us get ready for the last and decisive battle. The hour of decision is at hand.